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Monday
March 2, 1987

Briefings on How To Use the Federal Register—
For information on briefings in Houston, TX, Atlanta, GA, and Washington, DC, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

HOUSTON, TX

WHEN: March 10; at 9 am.
WHERE: Room 4415, Federal Building, 515 Rusk Avenue, Houston, TX.
RESERVATIONS: Call the Houston Federal Information Center on the following local numbers:

Houston **713–229–2552**
Austin **512–472–5495**
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ATLANTA, GA

WHEN: March 26; at 9 am.
WHERE: L.D. Strom Auditorium, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, GA.
RESERVATIONS: Call the Atlanta Federal Information Center, 404–331–2170.

WASHINGTON, DC

WHEN: March 31; at 9 am.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Beverly Fayson, 202–523–3517

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 5612 of February 25, 1987

Save Your Vision Week, 1987

By the President of the United States of America

A Proclamation

Vision is a priceless gift that enriches our lives in countless ways. Through our eyes we drink in the beauties of art and nature. Reading offers us a window on the world—present and past. The ability to see is something we tend to take for granted until it is threatened by disease or injury. But there are steps all of us can take now to protect the gift of sight.

One of the most important precautions is regular eye examinations by an eye care professional. Such checkups can alert us to the early stages of an eye disease that, if unchecked, could cause irreparable loss of sight. Thanks to research, eye doctors now have effective treatments for some of the most sight-threatening eye diseases.

For example, research supported by the National Eye Institute has shown that laser treatment can help many people who are at risk of visual loss from diabetic eye disease. It is essential for people with diabetes to have regular eye examinations to learn whether they need this treatment.

Regular eye checkups are also important for people who have reached middle age, because glaucoma, cataract, macular disease, and many other serious eye disorders tend to strike in middle and later life. But if these conditions are detected and treated in time, serious visual loss often can be prevented.

Children, too, stand to benefit from eye examinations. A routine checkup may reveal some problem that should be corrected while the child is still young. Many children have been spared from lifelong visual handicaps because a checkup gave warning of a need for treatment.

Preventing eye injuries is also very important. Everyone should wear goggles, safety glasses, or a face mask when working with chemicals or machinery that might be a hazard to the eyes. People participating in certain sports may also benefit from protective eyewear.

And there is more we can do. We can give the gift of sight to others by making arrangements to donate our eyes after death. Donations are needed for corneal transplant operations that can cure blindness in people whose corneas have been damaged by injury or disease. It is hard to imagine a more magnanimous bequest.

This is a time to recognize the many contributions of private organizations devoted to the safeguarding of eyesight, the prevention of visual loss, and the rehabilitation of those with impaired vision. During this centennial year of the National Institutes of Health, we can also celebrate the many research accomplishments of the National Eye Institute.

To encourage all Americans to reflect on how important eyesight is and what they can do to safeguard it, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 629, 36 U.S.C. 169a), has authorized and requested the President to proclaim the first week in March of each year as "Save Your Vision Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning March 1, 1987, as Save Your Vision Week. I urge all Americans to participate in this observance by making eye care and eye safety an important part of their lives. I invite eye care professionals, the communications media, and all public and private organizations committed to the goal of sight conservation to join in activities that will make Americans more aware of the steps they can take to protect their vision.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of February, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 87-4380
Filed 2-26-87; 2:48 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5613 of February 26, 1987

National Developmental Disabilities Awareness Month, 1987

By the President of the United States of America

A Proclamation

Nearly four million Americans have grown up with severe physical or mental impairments that have slowed their learning, limited their mobility, inhibited their expression, and rendered them dependent on others for care and assistance.

For many of these people with developmental disabilities there is now the prospect of a brighter future and greater opportunity. Americans are becoming increasingly aware that such disabilities need not keep individuals from realizing their full potential in school, at work or at home, as members of their families and of their communities.

New opportunities have been created through the efforts of those with developmental disabilities and their family members, along with professionals and officials at all levels of government. Working together, they have brought about significant changes in the public perception of young people and adults with developmental disabilities, opening new doors to independent and productive lives.

One important new milestone is the fruitful partnership between government and the private sector in finding productive employment for people with developmental disabilities, people who might otherwise have been destined to a lifetime of dependency. In the past 2 years, the Administration's Employment Initiative has resulted in finding job opportunities for more than 87,000 people with developmental disabilities.

The Congress, by Public Law 99–483, has designated the month of March 1987 as "National Developmental Disabilities Awareness Month" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of March 1987 as National Developmental Disabilities Awareness Month. I invite all individuals, agencies, and organizations concerned with the problem of developmental disabilities to observe this month with appropriate observances and activities directed toward increasing public awareness of the needs and the potential of Americans with developmental disabilities. I urge all Americans to join me in according to our fellow citizens with such disabilities both encouragement and the opportunities they need to lead productive lives and to achieve their full potential.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of February, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 87-4470
Filed 2-27-87; 11:58 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 52, No. 40
Monday, March 2, 1987

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1600

Employee Elections To Contribute to the Thrift Savings Plan

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Federal Retirement Thrift Investment Board (the Board) was established by Pub. L. No. 99–335 (June 6, 1986), the Federal Employees' Retirement System Act of 1986, 1986 U.S. Code Cong. & Ad. News (100 Stat.) 514 (to be codified principally at 5 U.S.C. 8401–8479), as amended by Pub. L. 99–509, the Omnibus Budget Reconciliation Act of 1986, and Pub. L. No. 99–556, the Federal Employee's Retirement System Technical Corrections Act of 1986, to administer the Thrift Savings Plan for Federal employees. Regulations of the Board will be contained in Title V, CFR, Chapter VI, Parts 1600–1699. The Executive Director of the Board is publishing in Part 1600 interim regulations concerning the procedures governing the establishment of open seasons and election periods for federal employees to elect to make or change regular contributions to the Thrift Savings Plan.

DATES: Interim rules effective February 15, 1987; comments must be received on or before March 15, 1987.

ADDRESSES: Comments may be sent to: James B. Petrick, Federal Retirement Thrift Investment Board, Ben Franklin Station, P.O. Box 511, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: James B. Petrick, (202) 653–2573.

SUPPLEMENTARY INFORMATION: Subpart A defines the terms used in this part. Subpart B contains procedures for the establishment of open seasons and effective dates by the Executive Director of the Board covering employees eligible to elect to participate in the Thrift Savings Plan (§ 1600.2). It describes eligible participants (§ 1600.3) and the types of elections which are permitted during the open season (§ 1600.4). It establishes rules for the termination of contributions to the Thrift Savings Plan (§ 1600.5), the way in which an election is effectuated (§ 1600.6), and the effective dates of various elections (§ 1600.7). Subpart C prescribes rules concerning permissible amounts of employee contributions. Subpart D establishes the open season for certain employees presently under the Civil Service Retirement System (CSRS) who transfer to the Federal Employees' Retirement System (FERS) (§ 1600.12). It also establishes the election rules applicable to CSRS employees who do not transfer to FERS (§ 1600.13).

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only internal government procedures for contributing to the Thrift Savings Plan.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Pursuant to 5 U.S.C. 553 (b)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days. The Board wishes to provide federal employees and agencies with maximum time to consider and process elections to join the Thrift Savings Plan by the statutory commencement date of April 1, 1987.

List of Subjects in 5 CFR Part 1600

Employees benefit plans, Government employees, Retirement, Pensions.

Title 5 of the Code of Federal Regulations is amended as follows:

Chapter VI—Federal Retirement Thrift Investment Board

1. In Title 5, a new Chapter VI is established entitled, "Chapter VI—Federal Retirement Thrift Investment Board."

2. In Title 5, Chapter VI, Part 1600 is added to read as follows:

PART 1600—EMPLOYEE ELECTIONS TO CONTRIBUTE TO THE THRIFT SAVINGS PLAN

Subpart A—General

Subpart B—Elections

Subpart C—Program of Contributions

Subpart D—Civil Service Retirement System Employees

Authority: 5 U.S.C. 8351, 5 U.S.C. 8432 (b)(1)(A), 5 U.S.C. 8474 (b)(5) and (c)(1).

Subpart A—General

§ 1600.1 Definitions.

Terms used in this part shall have the following meanings:

"Act" means the Federal Employees' Retirement System Act of 1986, as amended.

"Basic pay" means basic pay as defined in 5 U.S.C. 8431.

"Board" means the Federal Retirement Thrift Investment Board established pursuant to 5 U.S.C. 8472.

"CSRS" means the civil service retirement system established by Subchapter III of Chapter 83 of Title 5, United States Code.

"CSRS employee" means "employee" as defined in 5 U.S.C. 8331(1) or "Member" as defined in 5 U.S.C. 8331(2).

"Election period" means the last calendar month of an open season and is the earliest period in which an election during that open season to make or change a contribution can become effective.

"Employee" or "FERS employee" means "employee" as defined in 5

U.S.C. 8401(11) or "Member" as defined in 5 U.S.C. 8401(20).

"Employing agency" means the agency which is responsible for making contributions to the Thrift Savings Plan on behalf of a FERS employee or a CSRS employee.

"Executive Director" means the Executive Director of the Federal Retirement Thrift Investment Board, as defined in 5 U.S.C. 8401(13) and as further described in 5 U.S.C. 8474.

"FERS" means the Federal employees' retirement system established by Chapter 84 of title 5, United States Code.

"Highly compensated employee" means an employee with annual basic pay of more than $50,000. This amount is subject to adjustment from time to time in accordance with applicable tax laws and regulations.

"Open season" means the period during which employees may make an election with respect to the Thrift Saving Plan.

"Thrift Savings Plan" means the activity established pursuant to Subchapter III of Pub. L. No. 99–335 (June 6, 1986), the Federal Employees' Retirement System Act of 1986.

Subpart B—Elections

§ 1600.2 Periods for making elections.

(a) *Initial open seasons.* The first open season will commence on February 15, 1987 and end on April 30, 1987. The period April 1, 1987 through April 30, 1987 is a designated election period pursuant to 5 U.S.C. 8432(b)(4)(A). The second open season will commence on May 15, 1987 and end on July 31, 1997. The period July 1, 1987 through July 31, 1987 is a designated election period pursuant to section 6001(c)(2) of Pub. L. 99–509 (Oct. 21, 1986), the Omnibus Budget Reconciliation Act of 1986.

(b) *Subsequent open seasons.* The beginning and ending dates of all open seasons subsequent to the open season ending on July 31, 1987 will be announced in a notice published in the **Federal Register** no later than 30 calendar days prior to the beginning of such open seasons.

(c) *Number of elections.* Except for an election to terminate, an employee may make only one election during an open season.

(d) *Belated elections.* When an employing agency determines that an employee was unable, for reasons beyond the employee's control, to make an election within the time limits prescribed by these regulations, that agency may accept the employee's election within 30 calendar days after it advises the employee of that determination. Such election shall become effective not later than the first pay period beginning after the date that the agency accepts the employee's election form.

§ 1600.3 Eligibility of a Federal Employees' Retirement System Employee to make an election.

(a) Each employee who was an employee on January 1, 1987, continues as an employee without a break in service from January 1, 1987 through April 1, 1987, and has had creditable service as defined in 5 U.S.C. 8411(b)(2) may make an election during the open season which begins on February 15, 1987 and ends on April 30, 1987.

(b) Execpt as provided in paragraph (c) of this section, each employee who is not eligible by virtue of paragraph (a) of this section to make an election during the open season beginning on February 15, 1987 shall not be eligible to make an election until the second open season beginning after such employee's date of commencement of service. For such an employee whose date of commencement of service occurs prior to July 1, 1987, the open season beginning on May 15, 1987 shall be considered the first open season.

(c) Any employee who is reemployed by the federal government and who, during a previous period of service, had become eligible to participate in the Thrift Savings Plan under the foregoing paragraphs (a) or (b) shall be eligible during the next open season beginning after the date of reemployment to make an election.

§ 1600.4 Types of elections.

(a) *Contributions.* During an open season, an eligible employee may elect any one of the following:

(1) To make contributions for the first time;

(2) To change the amount of existing contributions; or

(3) To terminate contributions.

(b) *Investment choices.* Contributions made for pay periods begining in 1987 will be invested only in the Government Securities Investment Fund established by 5 U.S.C. 8438(b)(1)(A). Subsequent contributions may be invested in accordance with regulations which will provide contributing employees the option of investing limited amounts in the Fixed Income Investment Fund and the Common Stock Index Investment Fund established by 5 U.S.C. 8438(b)(1)(B), (b)(1)(C), and (b)(2).

§ 1600.5 Termination of contributions.

Nothwithstanding §§ 1600.4 and 1600.6, an employee may elect to terminate contributions to the Thrift Savings Plan at any time. If an employee makes an election to terminate during an open season, the employee, if otherwise eligible, may make an election to resume contributions during the next open season. If the election to terminate contributions is not made during an open season, the employee may not make an election to resume contributions until the second open season beginning after such election to terminate.

§ 1600.6 Method of election.

Each employee shall make an election, as described in § 1600.4 or § 1600.5, by completing and submitting to the employing agency an original or facsimile of Form No. TSP 1, entitled "Election Form," at any time during the open season. This form must be accepted by the employing agency, as evidenced by the signature of the responsible agency official on the election form, before an election can become effective.

§ 1600.7 Effective dates of elections made during first two open seasons.

For each employee whose election form is accepted by the employing agency during the portion of an open season which precedes a prescribed election period, the election, except for an election to terminate contributions, shall become effective as of the first pay period beginning on or after the first day of the election period. For the open seasons ending April 30, 1987 and July 31, 1987, elections accepted by the employing agency during the last calendar month of the open season (i.e., the election period) shall become effective no later than the first day of the first pay period beginning after the date on which the employing agency accepts the election form. An election to terminate contributions to the Thrift Savings Plan, whenever made, shall become effective no later than the first day of the first pay period beginning after the date the employing agency accepts the election form.

Subpart C—Program of Contributions

§ 1600.8 General.

Once an employee's election to make contributions to the Thrift Savings Plan becomes effective, the employing agency shall, for the pay period the election becomes effective and for each subsequent pay period until a new election becomes effective, deduct from the employee's basic pay the percentage of basic pay or the whole dollar amount elected by the employee not to exceed the applicable maximum contribution set forth in § 1600.10. If the employee's elected whole dollar amount exceeds

the amount of pay available for such deduction, no deduction will be made for that pay period.

§ 1600.9 Contributions in whole numbers.

Except in the case of a 7.5 percent contribution made by a CSRS employee as described in § 1600.10(b) of this part, contributions may be made only in whole percentage amounts or whole dollar amounts.

§ 1600.10 Maximum contributions.

(a) *FERS employees.* Except as provided in paragraph (c) of this section, for the period starting with the first pay period beginning on or after April 1, 1987 and ending with the last pay period beginning on or before September 30, 1987, the maximum FERS employee contribution is 15 percent of basic pay. Starting with the first pay period beginning on or after October 1, 1987, the maximum FERS employee contribution is 10 percent of basic pay.

(b) *CSRS employees.* For the period starting with the first pay period beginning on or after April 1, 1987 and ending with the last pay period beginning or or before September 30, 1987, the maximum CSRS employee contribution is 7.5 percent of basic pay. Starting with the first pay period beginning on or after October 1, 1987, the maximum CSRS employee contribution is 5 percent of basic pay.

(c) *CSRS employees who transfer to FERS.* The maximum employee contribution for CSRS employees who have transferred to FERS and have elected to participate in the Thrift Savings Plan, as described in § 1600.12, is 10 percent of basic pay.

(d) *Highly compensated employees.* The Internal Revenue Code places a ceiling of $7,000 per year on the amount which an employee may save on a tax-deferred basis through plans such as the Thrift Savings Plan. Another IRS provision requires that the Plan not discriminate in favor of highly compensated employees. To conform with these rules, contributions made by highly compensated employees may be restricted or refunded from time to time.

§ 1600.11 Required reductions of contribution rates.

The employing agency shall reduce the contribution of any FERS employee or CSRS employee whose elected contribution exceeds the applicable maximum percentage set forth in § 1600.10 (a) or (b). For any FERS employee or CSRS employee covered by this section who has elected to contribute a percentage of basic pay, the employing agency shall automatically reduce the contribution rate to the applicable maximum pecentage. For any FERS employee or CSRS employee covered by this section who has elected to contribute a whole dollar amount, the employing agency shall reduce the whole dollar amount to the highest whole dollar amount which does not exceed the applicable maximum pecentage.

Subpart D—Civil Service Retirement System Employees

§ 1600.12 Election period for Civil Service Retirement System employees who transfer to the Federal Employees' Retirement System.

(a) *General.* Section 8432(b)(3) of the Act authorizes the Executive Director to provide a reasonable period following the election by an eligible CSRS employee to transfer to FERS for that employee to make an election to contribute to the Thrift Savings Plan.

(b) *Individual election period.* Notwithstanding § 1600.2(c), each CSRS employee who transfers to FERS may make an election to contribute to the Thrift Savings Plan at the same time the individual elects to become subject to FERS and for 30 calendar days thereafter. The election options set forth in § 1600.4 shall be available to each such individual, and elections shall be made by the method described in § 1600.6. An election to contribute to the Thrift Savings Plan shall become effective no later than the first day of the first pay period following the acceptance of the election form by the employing agency. Such individual shall be subject to all provisions of this part except as limited by § 1600.10(c).

§ 1600.13 Contributions by Civil Service Retirement System employees.

(a) *General.* 5 U.S.C. 8351 permits CSRS employees to elect to contribute to the Thrift Savings Plan for investment in the Government Securities Investment Fund only. The initial open season for CSRS employees who were employees as of March 31, 1987 shall be February 15, 1987 through April 30, 1987. The next open season for such employees with no intervening break in employment shall be May 15, 1987 through July 31, 1987. An election made during the open seasons shall become effective as described in § 1600.7.

(b) *Election upon reemployment.* A CSRS employee reemployed on or after April 1, 1987, who was previously eligible to contribute to the Thrift Savings Plan, may make an election described in § 1600.4(a) during the first open season beginning on or after the date of the employee's reemployment. A CSRS employee reemployed on or after April 1, 1987 who was not previously eligible to contribute to the Thrift Savings Plan may make an election during the second open season beginning after the date of the employee's reemployment.

(c) *Applicability of other sections.* All sections in this part shall apply to CSRS employees except for §§ 1600.3, 1600.4(b), and 1600.10 (a) and (c), or where otherwise specifically stated.

Dated: February 25, 1987.

Francis X. Cavanaugh,

Executive Director.

[FR Doc. 87-4336 Filed 2-27-87; 8:45 am]

BILLING CODE 6820-SB-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Pineapple Juice

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to revise the current voluntary U.S. Standards for Grades of Canned Pineapple Juice. The final rule was developed by the U.S. Department of Agriculture (USDA) at the request of major segments of the canned pineapple juice industry. Its effect will be to improve the standards by: (1) Aligning the U.S. grade standards with the Food and Drug Administration (FDA) standards; (2) providing grade standards for pineapple juice from concentrate; (3) establishing a minimum soluble solids content of 12.8 degrees Brix for pineapple juice from concentrate in line with FDA requirements; (4) simplifying and clarifying the two standards (pineapple juice and pineapple juice from concentrate) to include definitions of terms and easy-to-read tables; (5) redesignating the grade name "U.S. Grade C" in the current canned pineapple juice standards to "U.S. Grade B"; (6) replacing dual grade nomenclature with single letter grade designations; and (7) removing the word "canned" from the canned pineapple juice grade standards so that the standards can be used for other types of processing and packaging. This final rule also includes conforming and editorial changes.

EFFECTIVE DATE: April 1, 1987.

FOR FURTHER INFORMATION CONTACT: Howard W. Schutz, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S.

Department of Agriculture, Washington, DC 20250, Telephone (202) 447–6247.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This rule amends the U.S. Standards for Grades of Pineapple Juice. Such standards are voluntary, and this final rule will improve and update them mainly by providing for the grading of juice from concentrate.

Because of their relationship to the Food and Drug Administration (FDA) standards, the current U.S. grade standards for canned pineapple juice include standards for pineapple juice from concentrate. For the benefit of the users of the standards, this rule adds the term "pineapple juice from concentrate" to the product description section of the standards.

The FDA on November 23, 1982 (47 FR 52771) amended 21 CFR 146.185 by changing the minimum soluble solids content requirement for pineapple juice from concentrate from 13.5° Brix to 12.8° Brix. This final rule adjusts the standards for minimum soluble solids content of pineapple juice from concentrate to parallel the requirements of FDA.

Two easy-to-read separate tables for determining quality grade levels are added—one for pineapple juice and another for pineapple juice from concentrate. The final rule also provides a "Definitions of terms" section for further clarification.

Canned pineapple juice grade standards currently have quality levels of "U.S. Grade A" and "U.S. Grade C." Most other U.S. grade standards for juices have quality levels of "U.S. Grade A" and "U.S. Grade B." When revising grade standard with grade designations of U.S. Grade A and U.S. Grade C, it is Agency policy to retain U.S. Grade A and redesignate U.S. Grade C to U.S. Grade B. This rule changes the grade designation of "U.S. Grade C" to "U.S. Grade B." The quality requirements of the second grade level will not be changed, only the nomenclature from "U.S. Grade C" to "U.S. Grade B." This rule also implements the USDA policy of replacing dual grade nomenclature with single letter designations. Under this rule, "U.S. Grade A" (or "U.S. Fancy") simply becomes "U.S. Grade A." These changes provide consistency between grade standards and eliminate confusion due to the absence of an intervening grade (U.S. Grade B).

Innovations in processing practices for pineapple juice have brought about methods of marketing pineapple juice in containers other than hermetically sealed cans. The FDA on August 13, 1985 (50 FR 32560) amended 21 CFR 146.185 by removing all references to the words "canned" and "canning" and adding the word "processing" where appropriate, consistent with the use of other methods of preservation. So that the standards can be used for these other types of processing and packaging, this rule eliminates the word "canned" from the canned pineapple juice grade standards.

This action also provides a uniform format consistent with recent revisions of other U.S. grade standards. The format is designed to provide industry personnel and agricultural commodity graders with simpler and more comprehensive standards. Definitions of terms and easy-to-read tables will replace the textual description in existing standards. These changes assure a better understanding and a uniform application of the standards. Other sections are modified to conform with these changes.

On August 11, 1986, a proposed rule was published in the **Federal Register** (51 FR 28719) to provide for the establishment of grade standards for pineapple juice from concentrate with easy-to-read tables, remove the word "canned" from the canned pineapple juice grade standards, and redesignate the grade name "U.S. Grade C" (or "U.S. Standard") to "U.S. Grade B," changing no quality through this redesignation.

The closing date of the comment period for the proposed rule was October 10, 1986. Two comments were received both fully supporting the proposal. One was submitted by the Pineapple Growers Association of Hawaii (PGAH), a trade association representing all of the processors of pineapple juice and pineapple juice from concentrate in the State of Hawaii and the second by the National Food Processors Association (NFPA), a food trade association representing about 600 member companies.

USDA has reviewed the comments and in order to improve the standards and encourage uniformity and consistency in commercial practices facilitating the trading of pineapple juice and pineapple juice from concentrate, hereby revises the voluntary grade standards for canned pineapple juice to: (1) Align the U.S. grade standards with the Food and Drug Administration (FDA) standards; (2) provide grade standards for pineapple juice from concentrate; (3) establish a minimum soluble solids content of 12.8 degrees Brix for pineapple juice from concentrate in line with FDA requirements; (4) simplify and clarify the two standards (pineapple juice and pineapple juice from concentrate) to include definitions of terms and easy-to-read tables; (5) redesignate the grade name "U.S. Grade C" in the current canned pineapple juice standards to "U.S. Grade B"; (6) replace dual grade nomenclature with single letter grade designations; and (7) remove the word "canned" from the canned pineapple juice grade standards so that the standards can be used for other types of processing and packaging. This rule also includes conforming and editorial changes.

List of Subjects in 7 CFR Part 52

Processed fruits and vegetables, Food grades and standards.

PART 52—[AMENDED]

Accordingly, 7 CFR Part 52 is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205; 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

2. Subpart—United States Standards for Grades of Canned Pineapple Juice (7 CFR 52.1761–52.1772) is revised to read as follows:

Subpart—United States Standards for Grades of Pineapple Juice

Sec.

Subpart—United States Standards for Grades of Pineapple Juice

§ 52.1761 Product description.

(a) *Pineapple juice* is the product as defined in the Standards for Pineapple

juice (21 CFR 146.185), issued under the Federal Food, Drug, and Cosmetic Act.

(b) *Pineapple juice from concentrate* is the product as defined in the Standards for Pineapple juice (21 CFR 146.185), issued under the Federal Food, Drug, and Cosmetic Act.

§ 52.1762 Styles.

(a) Unsweetened.

(b) Sweetened.

§ 52.1763 Definitions of terms.

In these U.S. Standards, unless otherwise required by the context, the following terms shall be construed to mean:

(a) *Acid* means the grams of acid contained in 100 milliliters of the juice (calculated as anhydrous citric acid).

(b) *Brix* means the soluble solids content as determined by the method prescribed in the *Official Methods of Analysis of the Association of Official Analytical Chemists*—Solids by Means of Spindle (Association of Official Analytical Chemists, Inc., *Official Methods of Analysis of the Association of Official Analytical Chemists).* This text is updated periodically, and any update or change in the method of analysis would be incorporated, as warranted, in the latest edition. The Brix may be determined by any other method that gives equivalent results.

(c) *Brix/acid ratio* means the ratio of the degrees Brix of the juice to the grams of anhydrous citric acid per 100 milliliters of the juice.

(d) *Color.*

(1) Pineapple juice.

(i) *Very good* color means the juice possesses a bright typical varietal color ranging from light yellowish beige to a golden amber or golden pinkish cast typical of freshly pressed and properly processed juice from mature, well-ripened pineapple.

(ii) *Good* color means the juice possesses a typical varietal color which may be slightly dull (but not off-color) yet normal for freshly pressed and properly processed juice from mature, well-ripened pineapple.

(2) Pineapple juice from concentrate.

(i) *Very good* color means the juice possesses a typical varietal color ranging from light yellowish beige to a golden amber or golden pinkish cast typical of reconstituted and properly processed juice from mature, well-ripened pineapple.

(ii) *Good* color means the juice possesses a typical varietal color which may be slightly dull (but not off-color) yet normal for reconstituted and properly processed juice from mature, well-ripened pineapple.

(e) *Defects* mean excess pulp, dark specks, pieces of shell, seeds, or other coarse or hard substances that are objectionable particles.

(1) *Practically free* from defects means the defects that are present do not more than slightly affect the appearance or palatability of the juice.

(2) *Reasonably free* from defects means the defects that are present do not more than materially affect the appearance or palatability of the juice.

(f) *Finely divided insoluble solids* means the particles in the juice that separate from suspension by centrifuging.

(g) *Flavor.* (1) *Very good* flavor means the juice possesses a distinct varietal flavor that is typical of freshly extracted juice (pineapple juice) or typical of reconstituted juice (pineapple juice from concentrate) that is properly processed from mature, well-ripened pineapple.

(2) *Good* flavor means the juice possesses a normal varietal flavor that may be slightly caramelized but is not off-flavor.

(h) *Sample unit* means a container and/or its entire contents, a portion of the contents of one or more containers or other unit of commodity.

§ 52.1764 Recommended sample unit sizes.

The factors of quality and analysis may be determined based on the following sample unit sizes:

(a) The entire contents of a container;

(b) A representative portion of the contents of a container;

(c) A combination of the contents of two or more containers; or

(d) A representative portion of processed product stored or held in bulk containers.

§ 52.1765 Grades.

(a) *U.S. Grade A* is the quality of pineapple juice or pineapple juice from concentrate that meets the applicable requirements of Table I or Table II.

(b) *U.S. Grade B* is the quality of pineapple juice or pineapple juice from concentrate that meets the applicable requirements of Table I or Table II.

(c) *Substandard* is the quality of pineapple juice or pineapple juice from concentrate that fails to meet the requirements for U.S. Grade B.

§ 52.1766 Factors of quality and analysis.

The grade of a lot of pineapple juice or pineapple juice from concentrate is based on observation and analysis of the juice for the following quality and analytical factors:

(a) *Quality:*

(1) Color;

(2) Defects;

(3) Flavor; and

(4) Total Score.

(b) *Analytical:*

(1) Acid measurement;

(2) Brix measurement;

(3) Brix/acid ratio; and

(4) Finely divided insoluble solids.

(c) The relative importance of each quality factor is expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

Factors	Points
Color	20
Defects	40
Flavor	40
Total Score	100

(d) The essential variations within each factor are so described that the value may be determined for each factor and expressed numerically. The numerical range for the rating of each factor is inclusive (for example, 17 to 20 points means 17, 18, 19, or 20 points) and the score points shall be prorated relative to the degree of excellence for each factor.

§ 52.1767 Fill of container.

The standard of fill of container for pineapple juice or pineapple juice from concentrate is a fill of not less than 90 percent of the total capacity of the container except when the food is frozen. Pineapple juice or pineapple juice from concentrate that does not meet this requirement is "Below Standard in Fill."

§ 52.1768 Requirements for grades.

TABLE I.—PINEAPPLE JUICE

Factors	Grade A	Grade B
Quality:		
Color	Very good	Good.
Score points	17 to 20	14 to 16.
Defects	Practically free	Reasonably free.
Score points	34 to 40	28 to 33.
Flavor	Very good	Good.
Score points	34 to 40	28 to 33.
Total score (minimum)	85 points	70 points.

Factors	Grade A		Grade B	
	Unsweetened	Sweetened	Unsweetened	Sweetened
Analytical:				
Acid (maximum)	1.10g/100ml	1.10g/100ml	1.35g/100ml	1.35g/100ml.
Brix (minimum)	12.0°	12.5°	10.5°	11.0°
Soluble pineapple juice solids (percent by weight of finished product prior to addition of sweetener): (minimum).		12.0		10.5.
Brix/acid ratio: (minimum)	12.0:1	12.0:1	12.0:1	12.0:1.
Finely divided insoluble solids (percent by volume): Range.	5 to 26%	5 to 26%	5 to 30%	5 to 30%.

TABLE II.—PINEAPPLE JUICE FROM CONCENTRATE

Factors	Grade A	Grade B
Quality:		
Color	Very good	Good.
Score points	17 to 20	14 to 16.
Defects	Practically free	Reasonably free.
Score points	34 to 40	28 to 33.
Flavor	Very good	Good.
Score points	34 to 40	28 to 33.
Total score (minimum)	85 points	70 points

Factors	Grade A		Grade B	
	Unsweetened	Sweetened	Unsweetened	Sweetened
Analytical:				
Acid (maximum)	1.10g/100ml	1.10g/100ml	1.35g/100ml	1.35g/100ml
Brix (minimum)	12.8°	13.0°	12.8°	13.0°
Soluble pineapple juice solids (percent by weight of finished product prior to addition of sweetener): (minimum).		12.8		12.8
Brix/acid ratio: (minimum)	12.0:1	12.0:1	12.0:1	12.0:1
Finely divided insoluble solids (percent by volume): Range.	5 to 26%	5 to 26%	5 to 30%	5 to 30%

§ 52.1769 Sample size.

The sample size used to determine whether pineapple juice meets the requirements of these standards shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1 through 52.83).

§ 52.1770 Lot requirements.

A lot of pineapple juice or pineapple juice from concentrate is considered as meeting the requirements for quality if:

(a) The requirements specified in Table I or II, as applicable, are met; and

(b) The sampling plans and procedures in 7 CFR 52.1 through 52.83 are met.

Done at Washington, DC, on February 24, 1987.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 87-4187 Filed 2-27-87; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1944 and 1951

Borrower Supervision, Servicing and Collection of Single Family Housing Loan Accounts; Refinancing; Correction

AGENCY: Farmers Home Administration (FmHA), USDA.

ACTION: Final rule; correction.

SUMMARY: FmHA makes two corrections to a final rule published January 5, 1987 (52 FR 243).

1. Section 1951.315 of Subpart G, Part 1951 of this chapter lists an incorrect procedure reference to Subpart A of Part 1944 of this chapter.

2. Reference to manufactured housing previously published was inadvertently omitted from § 1944.22(a) of Subpart A of Part 1944 of this chapter.

The intent of this action is to correct these errors.

FOR FURTHER INFORMATION CONTACT: Phil Girard, Senior Loan Specialist, Single Family Housing, Servicing and Property Management Division, Farmers Home Administration, Room 5309, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 382-1452.

SUPPLEMENTARY INFORMATION: The following corrections are made in 52 FR on pages 246 and 252 in the issue of January 5, 1987.

PART 1944—HOUSING

Paragraph (a) § 1944.22 appearing on page 246 is corrected to read as:

§ 1944.22 Refinancing debts.

(a) Refinancing of FmHA debts, except as authorized under § 1951.315 of Subpart G of Part 1951 of this chapter, or debts on a building site without a dwelling or debts on a manufactured home is not authorized.

* * * * *

PART 1951—SERVICING AND COLLECTIONS

The last sentence of § 1951.315 appearing on page 252 is corrected to read as:

§ 1951.315 Refinancing.

* * * Refinancing will be processed as an initial loan in accordance with Subpart A of Part 1944 of this chapter and will be for the amount of the FmHA debt plus closing costs, if necessary.

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Dated: February 24, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87-4317 Filed 2-27-87; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 242

Proceedings To Determine Deportability of Aliens in the United States, Apprehension, Custody, Hearing and Appeal; Correction

AGENCY: Immigration and Naturalization, Justice.

ACTION: Final rule; correction of effective date.

SUMMARY: The Immigration and Naturalization Service is correcting an error in the effective date of a final rule

published January 30, 1987 at 52 FR 3098 (FR Doc. 87–1861). The effective date of the rule was incorrectly listed as January 30, 1987 instead of March 3, 1987.

EFFECTIVE DATE: March 3, 1987.

FOR FURTHER INFORMATION CONTACT: Gregory S. Bednarz, Senior Special Agent, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–2997.

Dated: February 20, 1987.

Raymond M. Kisor,

Associate Commissioner, Enforcement, Immigration and Naturalization Service.

[FR Doc. 87–4081 Filed 2–27–87; 8:45 am]

BILLING CODE 4410-10-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Modification of Size Standards to Make Existing Size Standards Compatible With the New Standard Industrial Classification System; Correction

AGENCY: Small Business Administration (SBA).

ACTION: Emergency interim final rule; Correction.

SUMMARY: This document corrects an Emergency Interim Final Rule in the **Federal Register** (52 FR 397 *et seq.*) which modified the SBA's size standards published on January 6, 1987, to conform with the newly revised Standard Industrial Classification (SIC) system. The rule was effective on January 1, 1987. This action is necessary to correct inadvertant and typographical errors.

FOR FURTHER INFORMATION CONTACT: Harvey D. Bronstein, Acting Director, Size Standards Staff, U.S. Small Business Administration, 1441 L Street, NW. 20416, (202) 653–6373.

SUPPLEMENTARY INFORMATION: On January 6, 1987, the Small Business Administration published an Emergency Interim Final Rule which modified SBA's size standards as found in 13 CFR 121.2 to conform with the newly revised SIC system. The changes set forth below correct typographical and inadvertant errors which appeared in the January 6, 1987, publication. Accordingly, the following corrections are made to FR Doc. 87–125, appearing on page 397 in the issue of January 6, 1987.

Page 400

(1) The size standard for "1987 SIC–1499" (nonmetallic Minerals, N.E.C.) was omitted. Should read "500".

(2) The 1987 Descriptive Title for "1987 SIC–2038" reads "Dehydrated Fruits, Vegetables Soups". Should read "Frozen Specialties, N.E.C."

(3) The 1987 descriptive title for "1987 SIC–2369" reads "Children's Outwear, N.E.C.". Should read "Children's Outerwear N.E.C."

Page 401

(1) The 1987 descriptive Title for "1987 SIC–2835" reads "Diagnostic Substance". Should read "Diagnostic Substances".

(2) The size standard for "1987 SIC–3339" (Primary Nonferrous Metals, N.E.C.) reads"500". Should read "750".

Page 402

(1) The 1987 descriptive Title for "1987 SIC–4489" reads "Water Transportation of Passenger". Should read "Water Transportation of Passengers."

(2) The descriptive title for "1987 SIC *4492" reads "Towing Tugboat Services". Should read "Towing and Tugboat Services".

Page 403

(1) The 1987 descriptive title for "1987 SIC–4899" reads "Communication Services N.E.C." Should read "Communications Services, N.E.C.".

(2) The 1987 SIC for 1987 descriptive title "Motor Vehicle Parts, Used" reads "5015". Should read "*5015".

(3) The 1972 SIC for "1987 SIC *5047" (Medical and Hospital Equipment) is omitted. Should read "5086".

(4) The 1972 SIC for "1987 SIC *5047" is omitted. Should read "5086".

(5) The 1972 SIC for "1987 SIC *5048" reads "5086". Should be omitted.

(6) The 1987 descriptive title for "1987 SIC *5131" reads "Dnces, Goods and Notions". Should read "Piece Goods and Notions".

(7) The 1972 SIC for "1987 SIC–5159" is omitted. Should read "5152, 5159".

(8) The 1972 SIC for the 1987 descriptive title of "Plastic Materials and Basic Shapes" reads "5152, 5159". Should read "5161" and its 1987 SIC which reads "5161* 5162" Should read "*5162".

(9) The 1987 descriptive title for "1972 SIC Federal Saving Banks, FDIC and FSLIC" reads "Savings institutions, Not Federally Chartered". Should read "Saving Institutions, Federally Chartered".

(10) The size standard column for 1972 "SIC–6032, Federal Savings Banks, FDIC and FSLIC, SIC–6033, SIC–6034, SIC–6122, SIC–6123, SIC–6124, and SIC–6125" reads "100 million". Should read "$100 million [2]".

Page 404

(1) The headings under "I. Services" should read respectively from left to right: "1972 SIC, 1987 SIC, 1987 Descriptive Title and Size Standard."

(2) The 1987 descriptive title for "1987 SIC–7363" (reproduced twice) reads "Help Supply Services". Should read "Help Supply Services (includes base maintenance)."

(3) The "1987 SIC *8731" size standard reads "$500". Should Read "500".

(4) The 1987 descriptive title for "1987 SIC *7382" reads "Security Systems Service". Should read "Security Systems Services".

(5) The 1987 descriptive title for "1987 SIC *7384" reads "Photofinishing Laboratones". Should read "Photofinishing Laboratories".

(6) The 1987 descriptive title for "1987 SIC *8734" reads "Testing Laboratones". Should read "Testing Laboratories".

Page 405

(1) The headings under "I. Services—Continued" are omitted. Should read respectively, from left to right: "1972 SIC, 1987 SIC, 1987 Descriptive Title and Size Standards".

Dated: February 18, 1987.

Charles L. Heatherly,

Deputy Administrator, U.S. Small Business Administration.

[FR Doc. 87–4238 Filed 2–27–87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–CE–06–AD; Amdt. 39–5568]

Airworthiness Directives; Beech Models A23–19, 19A, M19A, B19, B19 Sport 150, 23, A23, A23A, B23, C23, C23 Sundowner 180, A23–24, A24, A24R, B24R, and C24R Sierra 200 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) 87–02–08, applicable to certain Beech Models A23–19, 19A, M19A, B19, B19 Sport 150, 23, A23, A23A, B23, C23, C23 Sundowner 180, A23–24, A24, A24R, B24R, and C24R Sierra 200 airplanes and codifies the corresponding emergency AD letter dated January 27, 1987, into the **Federal Register.** This AD requires initial and repetitive inspection of the stabilator hinge assemblies attachment to the fuselage. Reports have been received showing fasteners that attach stabilator hinge fittings to the fuselage have been found loose and sheared. Failure of this attachment could result in the pilot not being able to control the airplane. The inspections required by this AD will assure continued structural

integrity of the hinges attachment to the fuselage and prevent any loss of control occurrences caused by these failures.

DATES: *Effective date:* March 4, 1987, to all persons except those to whom it has already been made effective by priority letter from the FAA dated January 27, 1987.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Beech Service Bulletin No. 2182, issued February 1987, applicable to this AD may be obtained from Beech Aircraft Corporation, Commercial Service Department, P.O. Box 85, Wichita, Kansas 67201. This information may be examined at the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, FAA, Wichita Aircraft Certification Office, ACE-120W, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION: Beech 19, 23 and 24 Series airplanes are equipped with a moveable stabilator assembly for pitch control. This stabilator assembly pivots about and attaches to the airframe by means of two hinge assemblies on opposite sides of the aft fuselage. Seven reports showing loose or sheared fasteners attaching the hinge assemblies to the fuselage have been received. One report showed all but one fastener sheared in one hinge. Failure of all fasteners attaching a stabilator hinge to the fuselage would likely result in the pilot losing airplane pitch control. Priority Letter AD No. 87-02-08 was issued on January 27, 1987, requiring visual inspection of stabilator hinges attachment to the fuselage prior to further flight and each 100 hours time-in-service thereafter. The Priority Letter AD included a statement that Beech was still investigating this problem, and that the 100-hour repetitive inspection intervals specified in the AD may be adjusted upon completion of their investigation of this problem. At this time, no information justifying a change in the repetitive inspection interval has been identified.

The FAA has determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby necessitating the AD. It was also determined that an emergency condition existed, that immediate corresponding action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by priority mail letter dated January 27, 1987. The AD became effective immediately as to these individuals upon receipt of that letter, and is identified as AD 87-02-08. Since the unsafe condition described therein may still exist on other Beech 19, 23, and 24 Series airplanes, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification. Because a situation still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket at the location under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Beech: Applies to the following serial-numbered airplanes certificated in any category:

Model	Serial Nos.
A23-19, 19A, M19A and B19	MB-1 thru MB-520
B19 Sport 150	MB-521 thru MB-905
23, A23, A23A, B23, C23	M-1 thru M-1361
C23 Sundowner 180	M-1362 thru M-2156, M-2158 thru M-2392
A23-24, A24	MA-1 thru MA-368
A24R	MC-2 thru MC-95
A24R, B24R, C24R Sierra 200	MC-96 thru MC-795

Compliance: Required prior to further flight on all airplanes and each 100 hours time-in-service (TIS) thereafter for normal and utility category airplanes, and each 25 hours TIS thereafter for acrobatic category airplanes, unless already accomplished.

To preclude failure of the fasteners securing the stabilator hinge assemblies and subsequent loss of pitch control, accomplish the following:

(a) Visually inspect the fasteners securing the stabilator hinge assemblies to the fuselage for looseness or failure in accordance with the "ACCOMPLISHMENT INSTRUCTIONS" in Beech Service Bulletin No. 2182, issued February 1987.

(b) If any fasteners are found loose or failed when conducting the inspections required in paragraph (a) above, prior to further flight, replace all fasteners securing both the right and left hinge assemblies to the fuselage in accordance with the above-referenced service bulletin.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent method of compliance with this AD may be used when approved by the Manager, Wichita Aircraft Certification Office, Federal Aviation Administration (FAA), Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Beech Aircraft Corporation, Commercial Service Department, P.O. Box 85, Wichita, Kansas 67201; or may examine the document(s) referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on March 4, 1987, to all persons except those to whom it has already been made effective by priority letter from the FAA dated January 27, 1987, and is identified as AD 87-02-08.

Issued in Kansas City, Missouri, on February 17, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-4229 Filed 2-27-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-NM-152-AD; Amdt. 39-5574]

Airworthiness Directives; Weber Aircraft Technical Standard Order (TSO) C39a Passenger and Flight Attendant Seats

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires replacement of certain aft seat track fittings on Weber passenger and flight attendant seats. This action is prompted by a report that some seat floor attach fittings were not processed in accordance with the prescribed heat treat specification. As a result, in certain critical installations, the strength of these fittings is inadequate. This AD is necessary to reduce the potential for structural failure of a seat attachment fitting during an emergency landing.

EFFECTIVE DATE: Effective April 6, 1987.

ADDRESSES: The applicable service information may be obtained from Weber Aircraft, 2820 Ontario Street, Burbank, California 91504. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Eierman, Aerospace Engineer, Systems & Equipment Section, ANM-173W, FAA, Northwest Mountain Region, Western Aircraft Certification Office; telephone (213) 297-1388. Mailing Address: FAA, Northwest Mountain Region, Western Aircraft Certification Office, ANM-173W, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive to require replacement of certain aft seat track fittings on Weber passenger and flight attendant seats was published in the **Federal Register** on August 26, 1986 (51 FR 30372).

Interested persons have been afforded the opportunity to participate in the making of this amendment. Due consideration has been given to the one comment received.

The commenter suggested extending the compliance time of 90 days to 12 months because of uncertainty of the proposal's applicability. This comment was based on Weber Aircraft's expressed intention to revise the effectivity of the service bulletins referenced in the proposal. The FAA does not concur in that the proposed applicability is not uncertain. If Weber does revise the effectivity of its service bulletins to exclude certain fittings, operators may seek an alternate means of compliance, in accordance with paragraph B. of the AD, for fittings thereby excluded from the effectivity. If such a revision adds fittings to the effectivity, at that time the FAA would consider further rulemaking action to revise the applicability of this AD to include those fittings.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 7,000 seats will be affected by this AD, that it will take approximately one man hour per seat to replace the fittings, and that the average labor cost will be $40 per manhour. Replacement parts will be furnished by the manufacturer at no charge. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $280,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, airplanes using Weber seat track fittings are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive.

Weber Aircraft: Applies to Ancra part number 45238-10 (Weber SCD 833437-401) and Ancra part numbers 45232-10, -11, -12 (Weber SCD 833509-401, 403, 405) aft seat track fittings used on Weber Aircraft TSO C39a passenger and flight attendant seats.

Note.—Part numbers are not marked on the individual seat track fittings. Weber Service Bulletins Nos. 833437-25-505, dated March 14, 1986, and 833509-25-508, dated June 15, 1986, describe how these fittings can be identified and list the seat assembly part numbers, seat assembly serial numbers, aircraft, and aircraft customer on which these seat track fittings were installed by Weber.

Compliance required within 90 days after the effective date of this AD, unless previously accomplished.

To eliminate aft seat track fittings from service which do not meet minimum airworthiness requirements and would not provide required seat restraint in the event of an emergency landing, accomplish the following:

A. Replace the seat track fittings in accordance with Weber Aircraft Service Bulletins Nos. 833437-25-505, dated March 14, 1986, and 833509-25-508, dated June 15, 1986, or later FAA-approved revisions.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Western Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to ferry aircraft to a maintenance base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Weber Aircraft, 2820 Ontario Street, Burbank, California 91504. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Western Aircraft Certification Office at 15000 Aviation Boulevard, Hawthorne, California.

This amendment becomes effective April 6, 1987.

Issued in Seattle, Washington, on February 20, 1987.

Linda M. Rose,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-4226 Filed 2-27-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-AWP-38]

Amendment to Winnemucca, NV; Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Winnemucca, Nevada, 1,200 foot transition area. This action provides controlled airspace for aircraft transitioning from the Battle Mountain, Nevada, very high frequency omnidirectional range/tactical air navigation (VORTAC) to a new instrument approach procedure serving the Winnemucca Municipal Airport, Nevada. This action also provides controlled airspace for aircraft executing the procedure turn on the existing non-directional beacon (NDB) approach to the Winnemucca Municipal Airport.

EFFECTIVE DATE: 0901 UTC, June 4, 1987.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297-1648.

SUPPLEMENTARY INFORMATION:

History

On December 11, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the description of the Winnemucca, Nevada, transition area (51 FR 44633). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. § 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations changes the description of the Winnemucca, Nevada, transition area and provides controlled airspace for aircraft executing instrument approaches to the Winnemucca Municipal Airport, Nevada. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.18 [Amended]

2. § 71.181 is amended as follows:

Winnemucca, NV—[AMENDED]

Remove "that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the 342° and 162° bearings extending from the NDB to the southeast edge of V-113 and the north edge of V-6N." and substitute "that airspace extending upward from 1,200 feet above the surface within 5 miles northeast and 11 miles southwest of the 342° and 162° bearings extending from the southeast edge of V-113 to 11 miles southeast of the NDB; within 5 miles each side of the 162° bearing extending from 11 miles southeast of the NDB to the north edge of V-32; within 5 miles each side of the Battle Mountain VORTAC 296° radial extending from 12 miles to 50 miles northwest of the Battle Mountain VORTAC."

Issued in Los Angeles, California, on February 17, 1987.

Wayne C. Newcomb,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 87-4227 Filed 2-27-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-AWP-33]

Establishment of Transition Area at Mojave, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a 700 foot transition area at Mojave, California, and provides controlled airspace for a new instrument approach procedure to the Mojave, California, Airport.

EFFECTIVE DATE: 0901 UTC, June 4, 1987.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297-1648.

SUPPLEMENTARY INFORMATION:

History

On December 18, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot transition area at Mojave, California, (51 FR 45345). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes a 700 foot transition area at Mojave, California. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is

certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Mojave, CA—[New]

That airspace extending upward from 700 feet above the surface within the area bounded by a line beginning at lat. 34°48'00" N., long. 118°10'15" W.; to lat. 35°03'07" N., long. 118°12'38" W.; thence clockwise via the 3 nautical mile radius of the Mojave, California, Airport (lat. 35°03'30" N., long. 118°09'00" W.; to lat. 35°06'30" N., long. 118°09'11" W., to lat. 35°07'00" N., long. 117°57'00" W.; thence to the point of beginning.

Issued in Los Angeles, California, on February 17, 1987.

Wayne C. Newcomb,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 87-4228 Filed 2-27-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 372, 373, 374, 379, 386, 387, 389 and 399

[Docket No. 60961-6161]

Amendments to the Export Administration Regulations; Editorial Changes and Clarifications

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule, which neither expands nor limits the provisions of the Export Administration Regulations, makes numerous clarifying, conforming and other editorial changes.

EFFECTIVE DATE: This rule is effective March 2, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian or John Black, Office of Technology and Policy Analysis, Export Administration, Telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION: Among the editorial changes that this rule makes to the Export Administration Regulations are the following:

(1) Language is added specifying that a request to participate as an exporter of commodities for temporary use abroad under the provisions of General License *GTE* must be on company letterhead.

(2) An option for users of individual validated export licenses and reexport authorizations is clarified. This amendment confirms that in certain cases licenses and reexport authorizations may be issued for multiple consignees or end-users and, in such cases, additional consignees or end-users may be added by amendment. This procedure does *not* apply to applications with a single consignee or end-user; deletion of such a consignee or end-user and substitution of another requires a new application or request.

(3) Regulatory provisions on "special (multiple) licenses" are amended to clarify that exports to Afghanistan and Iran *cannot* be made under a Distribution License and that certain limitations apply to exports to Iran and the People's Republic of China under the Service Supply License.

(4) A paragraph that was inadvertently dropped in an earlier **Federal Register** Notice (43 FR 35028) concerning the exclusion from the Project License of certain commodities intended for resale is restored to § 373.2.

(5) A correction is made regarding written assurances against the export of certain petroleum and natural gas technical data to Afghanistan.

(6) An amendment is made to conform the Export Administration Regulations with the Foreign Trade Statistics Regulations (FTSR). The Bureau of the Census, Department of Commerce, amended the FTSR at 50 FR 23400, June 4, 1985, to raise the Shipper's Export Declaration filing exemption from $500 to $1,000 for commodities that are shipped by means other than mail. As described in 15 CFR 386.1(c)(2)(i), the exemption applies to nonmail shipments of commodities classified under a single Schedule B number, shipped to Country Group T or V on the same carrier from one exporter to one importer, and not shipped under a validated export license. With the new value limit, exporters are not required to file Shipper's Export Declarations for such shipments if valued at $1,000 or less.

(7) A new mailing address is added for requests to submit summary monthly reports instead of individual Shipper's Export Declarations.

(8) The codification of Supplement No. 1 to 15 CFR Part 386 is discontinued. That Supplement contains a reprint of 15 CFR Part 30, Subpart D—Exemptions from the Requirements for the Filing of Shipper's Export Declarations—issued by the Bureau of the Census and published as part of the Export Administration Regulations. The discontinuing of the codification of this Supplement in the *Code of Federal Regulations* eliminates the necessity of amending Supplement No. 1 each time Census amends the FTSR. (The Supplement will be retained in the looseleaf version of the Export Administration Regulations made available to exporters through subscription.)

(9) A paragraph is amended to change the address for filing an appeal from an administrative action.

(10) A typographical error is corrected in entry 3363A of the Commodity Control List, which identifies those items subject to Department of Commerce export controls. In addition, a clarification of current export Policy is made to entries 3363A, 4363B and 4698B.

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Vincent Greenwald, Office of Technology and Policy Analysis, Export Administration, Department of

Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule mentions collections of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0625–0001, 0625–0002, 0625–0003, 0625–0009, 0607–0018, 0625–0052, and 0625–0162.

List of Subjects in 15 CFR Parts 371, 372, 373, 374, 379, 386, 387, 389 and 399

Administrative practice and procedure, Computer technology, Exports, Law enforcement, Penalties, Reporting and recordkeeping requirements, Science and technology.

PARTS 371, 372, 373, 374, 379, 386, 387, 389, AND 399—[AMENDED]

Accordingly, the Export Administration Regulations (15 CFR Parts 368 through 399) are amended as follows:

1. The authority citation for 15 CFR Parts 372, 374, 387 and 389 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

2. The authority citation for 15 CFR Parts 371, 373, 379, 386 and 399 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 et seq., E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 (October 2, 1986); E.O. 12571, October 27, 1986 (51 FR 39505, October 29, 1986).

§ 371.1 [Amended]

3. Section 371.1 is amended by revising the second sentence to read: "Except for General License *GTE*, no authorization is required for using a general license and no document is issued."

4. Section 371.22(d)(1) introductory text and (d)(2) are revised to read as follows:

§ 371.22 General License GTE; temporary exports.

* * * * *

(d) *Registration*—(1) *Certification.* Before making the first export of a commodity under General License *GTE*, the exporter shall apply for a General License *GTE* by submitting the following certification on company letterhead to the Office of Export Licensing, in duplicate, requesting registration as an exporter under the provisions of this General License *GTE:*

* * * * *

(2) *Validation of certification.* The Office of Export Licensing will review the application and, if it is approved, will notify the registrant of his General License *GTE* by returning to him a validated copy of his registration. The registration shall remain valid until specifically revoked by the Office of Export Licensing.

* * * * *

5. Section 372.2(b) (1) and (4) are revised to read as follows:

§ 372.2 Types of validated licenses.

* * * * *

(b) *Types.* * * *

(1) An "individual license" is any validated license, other than those named in paragraphs (b) (2) through (4) of this section, authorizing the export of technical data or a specified quantity of commodities during a specified period to a designated consignee (or, in certain cases, to designated consignees).

* * * * *

(4) A "Service Supply (SL) License" (§ 373.7(d)(1)) authorizes a U.S. exporter or manufacturer to export spare and replacement parts to Country Groups T or V (except Afghanistan, Iran, and the People's Republic of China) and, under certain conditions, to export replacement parts to Country Groups Q, W, Y, Afghanistan and the People's Republic of China to service equipment made or exported by the licensee or made by his foreign subsidiary.

* * * * *

§ 372.2 [Amended]

6. Section 372.2(b)(3) is amended by revising the phrase "Country Groups T & V except the People's Republic of China" to read "Country Groups T & V, except Afghanistan, Iran, and the People's Republic of China".

7. Section 372.4(c) is revised to read as follows:

§ 372.4 How to apply for a validated license.

* * * * *

(c) *Separate application for each ultimate consignee.* Generally, an individual license application should list only one ultimate consignee. Export Administration may authorize additional ultimate consignees (multiple consignees) and end-users when the contemplated transaction warrants it and EA determines that such action is appropriate because the transaction involves common licensing considerations such as parties, commodities, destination, or end-use.

* * * * *

8. Section 372.11 is amended by revising the period at the end of paragraph (e)(2)(iii) to a semicolon and adding the word "or," and by adding a paragraph (e)(2)(iv), reading as follows:

§ 372.11 Amending export licenses.

* * * * *

(e) * * *

(2) * * *

(iv) to add one or more new consignees to an outstanding individual validated license that was originally issued with multiple consignees.

* * * * *

9. Section 373.2 is amended by adding paragraph (b)(2) to read as follows:

§ 373.2 Project license.

* * * * *

(b) * * *

(2) The commodities are intended for resale in the form in which they were exported from the U.S.;

* * * * *

§ 373.7 [Amended]

10. Section 373.7(b)(7) is amended by revising the phrase "covered by § 390.7" to read "covered by §§ 390.6 and 390.7".

11. Section 373.7(d)(1) is amended by revising the phrase "Country Group T or V except Afghanistan" to read "Country Group T or V, except Afghanistan, Iran, and the People's Republic of China".

12. Section 373.7(d)(2)(i) is amended by revising the title to read *"Country Groups T and V, except Afghanistan, Iran, and the People's Republic of China"* and by inserting the words "and Iran" after the word "Afghanistan" each time it appears in the paragraph (3 revisions).

13. Section 373.7(d)(2)(ii) is amended by revising in the first sentence the phrase "Country Group T or V except Afghanistan" to read "Country Group T or V, except Afghanistan, Iran, and the People's Republic of China".

14. Section 373.7(d)(3) is amended by revising the phrase "Country Group T or V except Afghanistan" to read "Country

Group T or V, except Afghanistan, Iran, and the People's Republic of China" (two revisions).

15. § 373.7(h)(1)(ii) is amended by revising in the first sentence the phrase "Country Group T or V except Afghanistan and the People's Republic of China" to read "Country Group T or V, except Afghanistan, Iran, and the People's Republic of China".

16. Section 374.6 is revised to read as follows:

§ 374.6 Amendment of reexport requests.

Reexport authorizations may be amended as necessary (see § 372.11) either by submission of Form ITA–685P or by letter in the same manner as that described in § 374.5(b), as appropriate. State the facts necessitating an amendment in Item 12 of Form ITA–685P or in the amending letter request. A reexport authorization may *not* be amended to change the country of ultimate destination or, on a single-consignee request, to delete the new ultimate consignee and substitute another. Such transactions require a *new* request for reexport authorization. The *addition* of ultimate consignees, however, is allowed by amendment when the authorization was issued originally with multiple consignees.

§ 379.4 [Amended]

17. Section 379.4(f)(1) is amended by revising the phrase "to the U.S.S.R, Estonia, Latvia, or Lithuania" to read "to the U.S.S.R., Estonia, Latvia, Lithuania, or Afghanistan" (three revisions).

§ 386.1 [Amended]

18. Section 386.1(c)(2)(i) is amended by revising the reference to "$500" to read "$1,000".

§ 386.3 [Amended]

19. Section 386.3(r)(2) is amended by revising the address—

"Office of Export Administration, P.O. Box 273, Washington, DC 20044"—

to read—

"Office of Export Enforcement, P.O. Box 7138, Washington, DC 20044".

20. Supplement No. 1 to Part 386 is revised to read as follows:

Supplement No. 1 to Part 386

Subpart D—Exemptions From the Requirements for the Filing of Shipper's Export Declaration—of the Foreign Trade Statistics Regulations of the Bureau of the Census (15 CFR 30.50–30.57)

Note.—This Supplement references regulations regarding exemptions from Shipper's Export Declaration filing requirements, which are issued by the Bureau of the Census. These regulations are referenced in the Export Administration Regulations (EAR) for an informational purpose and are codified in the *Code of Federal Regulations* under Title 15, Part 30, Subpart D. The looseleaf version of the EAR contains the text of these regulations reprinted in full.

§ 389.2 [Amended]

21. Section 389.2(b)(1) is amended by revising the phrase "Room 3898B" to read "Room 6716".

§ 399.1 [Amended]

22. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 3363A is amended by revising the *Validated License Required* paragraph and the *Reason for Control* paragraph to read as follows:

3363A Electrolytic cells for the production of flourine with a production capacity greater than 250 grams of flourine per hour; and specially designed parts and accessories thereof.

* * * * *

Validated License Required: Country Groups QSTVWYZ.

* * * * *

Reason for Control: National security; nuclear non-proliferation. Nuclear controls do not apply to countries listed in Supp. Nos. 2 and 3 to Part 373.

* * * * *

23. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 4363B is amended by removing the phrase "Spain and to" from the *Validated License Required* paragraph.

24. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals, and Their Manufactures), ECCN 4698B is amended by removing the phrase "Spain and to" from the *Validated License Required* paragraph.

Dated: February 24, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87–4128 Filed 2–27–87; 8:45 am]

BILLING CODE 3510-DT-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 16

Domestic Exchange—Traded Commodity Options: Option Traders; Commercial Categories

AGENCY: Commodity Futures Trading Commission.

ACTION: Rules related notice.

SUMMARY: On August 27, 1982, the Commission published in the **Federal Register** a notification of its list of occupation categories for option contracts (47 FR 37880). This list, as amended on January 10, 1983 (48 FR 1047), February 3, 1984 (49 FR 4200) October 15, 1984 (49 FR 40159), October 26, 1984 (49 FR 43048), December 17, 1985 (50 FR 51385) and July 22, 1986 (51 FR 26236), forms the basis from which the Commission measures commercial participation in domestic exchange-traded commodity options. Futures commission merchants and members of contract markets are required under Commission Rule 1.37(a), 17 CFR 1.37(a)(1982), to record for each option customer account they carry an appropriate occupation category from a list of such categories set forth by the Commission. Futures commission merchants and members of contract markets are required also to record a symbol indicating whether the option customer is commercial or non-commercial.

In order to accommodate options on random length lumber futures, on January 28, 1987, the Commission published in the **Federal Register** (52 FR 2920) a revised list of occupation categories. In reprinting the entire list, several typographical errors were made. The list is being republished in its entirety at this time to correct those errors.

FOR FURTHER INFORMATION CONTACT: Rick Shilts, Deputy Director, or John Forkkio, Economist, Market Analysis Section, Division of Economic Analysis, (202) 254–7303, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: The Commission's corrected list of commercial categories for option contracts is as follows:

Commodity and occupation categories

Sugar, Cocoa, and Coffee "C":
1. Producer
2. Merchant or Dealer
3. Refiner/Processor of Raw Commodities
4. Manufacturer of Intermediate or Final Products
5. Other Commercial

Metals/Precious Metals:
6. Miner/Producer
7. Primary or Secondary Refiner
8. Dealer (Metal Merchant)
9. Commercial End User

46. Fabricator or Alloyer
11. Other Commercial [1]

Petroleum:
39. Crude Oil Producer
40. Crude Oil Reseller
12. Refiner
13. Product Marketer and/or Distributor
14. End User
15. Other Commercial

Financial Instruments/Foreign Exchange:
16. Savings and Loan, Mortgage Bank or Thrift Institution
17. Commercial Bank
18. Insurance Company
19. Pension and Retirement Fund
20. Mutual Fund
21. Broker/Dealer
22. Foundation or Endowment
23. Other Commercial
24. Importer/Exporter of Goods and Services
25. Investor/Issuer of Foreign Currency Denominated Securities

Grains, Soybeans, and Soybean Products:
26. Grain or Soybean Producer
27. Producer Cooperative
28. Elevator Operator or Merchant Other Than a Producer Cooperative
29. Processor, Including Feed Manufacturing and Soybean Crushing
30. Livestock Feeder or Producer
47. Soybean Oil Refiner
31. Other Commercial

Livestock and Frozen Pork Bellies:
32. Farmer or Rancher
33. Commercial Feedlot Operator
34. Other Livestock Feeder
35. Marketing Agency and/or Commission Merchant
36. Packer or Other Meat Processor
37. Meat Wholesaler, Retailer, or Buyer
38. Other Commercial

Cotton and Frozen Concentrated Orange Juice:
41. Producer/Grower
42. Producer/Grower Cooperative
43. Merchant/Wholesaler
44. Mill Operator/Processor
45. Other Commercial

Forest Products:
48. Producers
49. Remanufacturers
50. Wholesalers
51. Retailers and Builders
52. Other Commercial

The appropriate classification for a customer is based on the primary activity of the customer in using the option market in conjunction with its cash market activities.

Issued in Washington, DC, on February 25, 1987.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-4292 Filed 2-27-87; 8:45 am]

BILLING CODE 6351-01-M

[1] Category 10 intentionally blank

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-87-1319; FR-2245]

Removal of Authority of Federal Financing Bank To Purchase Section 108 Guaranteed Obligations

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: In accordance with section 3002 of the Consolidated Omnibus Budget Reconciliation Act of 1985, this final rule removes regulations that authorized the Federal Financing Bank (FFB) to purchase CDBG guaranteed obligations issued by units of local government. A new financing arrangement for the purchase of these obligations will replace the FFB. Related regulations in 24 CFR Part 570 are amended also to remove HUD's function of servicing the guaranteed loans and to permit use of the loan proceeds to pay issuance and other costs.

EFFECTIVE DATE: April 1, 1987.

FOR FURTHER INFORMATION CONTACT: Don I. Patch, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7280, 451 Seventh Street, SW., Washington, DC 20410. Telephone number (202) 755-6587. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 3002(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272, approved April 7, 1986) (1985 Act) amended section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) by adding a new subsection (*l*) to provide that "Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank."

The existing regulation at 24 CFR 570.703(d), issued under the authority of section 108 (*i.e.*, before subsection (*l*) was added to section 108 by the 1985 Act), states, among other things, that "[N]otes or other obligations shall be issued and sold only to the Federal Financing Bank under such terms as may be prescribed by the Secretary and the Federal Financing Bank." This regulatory provision has been rendered invalid by the enactment of section 3002(a) of the 1985 Act. Accordingly, this final rule removes the above-cited language from 24 CFR 570.703(d).

Section 3002(c) of the 1985 Act requires HUD also to "take such administrative actions as are necessary to provide [by July 1, 1986] private sector financing of loans guaranteed under section 108." After enactment of the 1985 Act, HUD explored possible financing arrangements. The alternative approaches considered included private placement of the guaranteed loans, a public offering through an open auction, bid-based process, and an underwritten public offering. HUD concluded that either of the public offering approaches considered would provide greater liquidity and flexibility than private placement of the guaranteed obligations. It was determined that an auction, bid-based public offering would be less likely to develop a broad secondary trading market, however, and could suffer from a sporadic, piecemeal primary market. HUD decided the underwritten public offering approach was the arrangement most likely to ensure the development of an effective primary and secondary market, providing the lowest interest rates for guaranteed obligations. It was also determined that this approach would provide the greatest flexibility for section 108 borrowers with respect to repayment terms.

In July 1986, HUD solicited proposals for private sector financing of section 108 guaranteed obligations from firms included on the list of primary Government dealers required to report to the Market Reports Division of the Federal Reserve Bank of New York. The firms were told that HUD anticipated those selected would purchase the guaranteed obligations for resale to the public as members of an underwriting group. Twelve firms submitted proposals; however, two proposals were received after the deadline and were not considered.

A HUD Source Evaluation Board reviewed and evaluated the ten proposals. The Board's recommendation for the members of the underwriting group for the first public offering was accepted by the Assistant Secretary for Community Planning and Development. The underwriting group consists of Salomon Brothers, Inc.; Smith Barney, Harris Upham & Co., Inc.; and Citicorp Investment Bank.

HUD is now working with the underwriting group on the details of the financing arrangement. HUD expects that the application process and review process will not change. The underwriting group will purchase and resell the guaranteed obligations by a public offering which will probably take place in June 1987. A fiscal agent will service the loans. HUD anticipates that there will be two or three offerings per year under the underwritten public offering arrangement. A mechanism for

interim financing between offerings will be established.

This rule amends § 570.701 by adding a new paragraph (g). This amendment results from the change to private sector financing of section 108 guaranteed obligations. Paragraph (g) allows the use of guaranteed loan funds to pay the issuance, underwriting, servicing, and other costs associated with private sector financing of these obligations. These costs are being authorized by HUD as permissible "related expenses" under section 108(a) of the Housing and Community Development Act of 1974.

A related change has been made to § 570.703. A new paragraph (h) has been added to this section that requires the applicant local government or its designated public agency to pay the issuance, underwriting, servicing, and other costs associated with the private sector financing. Paragraph (h) provides that these costs are payable out of the proceeds from the sale of the guaranteed obligations.

An additional change has been made to § 570.703. Because HUD will not service the loans under the private sector financing arrangement, paragraph (g) has been revised to delete the reference to servicing as a basis for calculating the loan guarantee fee. However, a loan guarantee fee will still be imposed to cover the cost of processing the loan guarantee application.

Under section 3002(b) of the 1985 Act, the amendment terminating FFB's authority to purchase guaranteed obligations took effect on July 1, 1986. Because the Department had not yet provided for the substitute private sector financing required under subsection (c), the Department did not revise its rules by July 1, 1986 to remove the reference to the FFB. (FFB financing, however, has not been employed since that date.) The Secretary has determined that it is impracticable first to publish this action as a proposed rule with an opportunity for public comment, because grantees planning to use guaranteed loans have had no access to such funds since July 1, 1986. It is essential to implement the private sector financing replacement mechanism without delay to ensure continuity of the program. This regulation is therefore being published as a final rule.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule continues a loan guarantee program while ending Federal Financing Bank purchases of obligations issued under the guarantee; the change, however, is not expected to have a significant economic impact on small entities.

This rule was listed as item number 916 in the Department's Semiannual Agenda of Regulations published on October 27, 1986 (51 FR 38459), under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.218 and 14.219.

List of Subjects in 24 CFR Part 570

Community development block grants, Grant programs: Housing and community development, Loan programs: Housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

Accordingly, 24 CFR Part 570 is amended as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for 24 CFR Part 570 continues to read as follows:

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 570.701 is amended by adding a new paragraph (g) to read as follows:

§ 570.701 Eligible activities.

* * * * *

(g) Payment of issuance, underwriting, servicing, and other costs associated with private sector financing of notes or other obligations guaranteed under this subpart.

3. Section 570.703 is amended by revising paragraphs (d), (g)(3) introductory text, and (g)(3)(i), and by adding a new paragraph (h) to read as follows:

§ 570.703 Loan requirements.

* * * * *

(d) *Debt obligations.* Notes or other obligations guaranteed under this subpart shall be in the form and denominations prescribed by the Secretary. Such notes or other obligations may be issued and sold only under such terms and conditions as may be prescribed by the Secretary.

* * * * *

(g) * * *

(3) The amount of the loan guarantee fee shall be determined by multiplying the average number of the Office of Community Planning and Development (CPD) staff hours required to process a loan guarantee application by the anticipated cost per staff hour. These factors shall be determined in accordance with the following procedures:

(i) The average number of staff hours required to process a loan guarantee application shall be determined by means of departmental studies and other relevant data. Disapproved loan guarantee applications and the number of staff hours required to process disapproved loan guarantee applications will not be considered in this determination.

* * * * *

(h) *Issuance, underwriting, servicing, and other costs.* Each applicant or its designated public agency issuing guaranteed obligations must pay the issuance, underwriting, servicing, and other costs associated with the private sector financing of the guaranteed obligations. Such costs are payable out of the proceeds from the sale of the guaranteed obligations.

Dated: February 24, 1987.

Jack R. Stokvis,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 87–4311 Filed 2–27–87; 8 45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay Regulation 87-01]

Security Zone Regulation; San Francisco Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a Security Zone in the San Francisco Bay, Oakland Outer Harbor, Oakland Army Terminal Berths 7E and 7W. The Security Zone is needed to safeguard the vessel moored at Berths 7E and 7W from sabotage, subversive acts, accidents, or incidents of a similar nature. The Security Zone extends 100 yards around the vessel. Entry into this Security Zone is prohibited unless authorized by the Captain of the Port, San Francisco Bay.

EFFECTIVE DATES: This regulation becomes effective on 8 March 1987 at approximately 12:01 A.M., PST. It terminates 11 March 1987 when the vessel departs its berth.

FOR FURTHER INFORMATION CONTACT: LTJG George P. Cummings, Coast Guard Marine Safety Office San Francisco Bay, CA, 415–437–3073.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a "Notice of Proposed Rulemaking" (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. The United States Army's request for assistance was not received until 23 January 1987, and there was not sufficient time remaining to publish NPRM. In addition, the Security Zone involves a military affairs function and is exempt from the requirements of 5 U.S.C. 553.

Drafting Information

The drafters of this regulation are LTJG George P. CUMMINGS, Project Officer for the Captain of the Port, and LCDR W. C. RAABE, Project Attorney, Twelfth Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation will occur between 8 and 11 March 1987 while a vessel is moored at Berths 7E and 7W during a joint service field exercise. This is a mobilization exercise and a Security Zone is necessary to practice the execution of contingency plans. The Security Zone is in the national interest and is justified to help protect military resources and to aid military readinesss. This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart D of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231, 50 U.S.C. 191, 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. A new § 165.T1201 is added to read as follows:

§ 165.T1201 Security Zone: San Francisco Bay, CA.

(a) *Location.* The following area is a Security Zone: A Security Zone is established 8 March 1987 around the vessel moored at Berths 7E and 7W, Oakland Army Terminal, Oakland, CA. The Security Zone extends 100 yards around the vessel.

(b) *Effective date.* This regulation becomes effective when the vessel moors at Berths 7E and 7W, Oakland Army Terminal and remains effective whenever moored at this location. It terminates when the vessel departs the berth on 11 March 1987.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port San Francisco Bay, CA. Section 165.33 also contains other general requirements.

Dated: February 13, 1987.

David Zawadzki,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay.

[FR Doc. 87–4308 Filed 2–27–87; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

34 CFR Part 338

Postsecondary Education Programs for Handicapped Persons

AGENCY: Department of Education.

ACTION: Final Regulations.

SUMMARY: The Secretary issues final regulations for the Postsecondary Education Programs for Handicapped Persons program to implement the Education of the Handicapped Act Amendments of 1986. This action is necessary because the new legislation requires that the Secretary shall, to the extent feasible, disperse awards geographically and requires grantees to coordinate their efforts with, and to disseminate information about their projects to, the Postsecondary Clearinghouse established by the Clearinghouses for the Handicapped Program. In addition, a provision of the current regulations has been removed because it is no longer authorized.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Rosenstein, Postsecondary Education Programs for Handicapped Persons, Division of Educational Services, Office of Special Education Programs, U.S. Department of Education—MES Room 4092, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732–1176.

SUPPLEMENTARY INFORMATION: The Postsecondary Education Programs for Handicapped Persons program was established under Pub. L. 91–230 on April 13, 1970 and is currently authorized by Section 625 of Part C of the Education of the Handicapped Act (20 U.S.C. 1424a). Section 625 was amended by Pub. L. 99–457, enacted October 8, 1986.

The Education of the Handicapped Act Amendments of 1986, Pub. L. 99–457, requires the Secretary to the extent feasible to disperse awards geographically under this program throughout the nation in urban as well as rural areas. In addition, the new legislation requires grantees to coordinate their efforts with, and disseminate information about their activities to, the clearinghouse on postsecondary programs established by the Clearinghouses for the Handicapped Program. The regulations are amended to reflect these new requirements. In addition, § 338.10(a)(5), which authorized the use of grant funds to conduct research, innovation, training, and dissemination activities consistent with the purposes of section 624 of the Act, is removed from the regulations. The authority for this provision has been deleted by the new legislation.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. Because the change made in the regulations merely incorporates a statutory change into existing regulations and does not itself establish new substantive policy, public comment could have no effect on the content of this amendment. Therefore the Secretary has determined under 5 U.S.C. 553(b)(B) that proposed rulemaking on this amendment is unnecessary and contrary to the public interest.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 338

Education, Education of handicapped, Education—research, Grants Program—education, Postsecondary.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number 84.078: Postsecondary Education Programs for Handicapped Persons)

Dated: February 8, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 338 of Title 34 of the Code of Federal Regulations as follows:

PART 338—POSTSECONDARY EDUCATION PROGRAMS FOR HANDICAPPED PERSONS

1. The authority citation for Part 338 is revised to read as follows:

Authority: 20 U.S.C. 1424a, unless otherwise noted.

§ 338.10 [Amended]

2. Section 338.10 is amended by removing paragraph (a)(5), by adding the word "and" at the end of paragraph (a)(3), and by removing "; and" at the end of paragraph (a)(4) and adding, in its place, a period.

3. A new § 338.32 is added to read as follows:

§ 338.32 Are awards for regional centers and model projects geographically dispersed?

To the extent feasible, the Secretary, after applying the selection criteria in § 338.31, geographically disperses awards for regional centers and model projects throughout the Nation in urban and rural areas.

(Authority: 20 U.S.C. 1424a)

4. A new Subpart E, consisting of §338.40, is added to read as follows:

Subpart E—What Conditions Must a Grantee Meet?

Sec.

338.40 What coordination and dissemination requirements must be met by a grantee?

338.41–338.49 [Reserved]

Subpart E—What Conditions Must a Grantee Meet?

§ 338.40 What coordination and dissemination requirements must be met by a grantee?

Grantees operating regional centers and model projects shall coordinate their efforts with, and disseminate information about their activities to, the clearinghouse on postsecondary programs established under 34 CFR 320.1(b).

(Authority: 20 U.S.C. 1424a)

§§ 338.41–338.49 [Reserved]

[FR Doc. 87–4288 Filed 2–27–87; 8:45 am]

BILLING CODE 4000–01–M

POSTAL SERVICE

39 CFR Part 10

Express Mail International Service to Jordan

AGENCY: Postal Service.

ACTION: Final action on Express Mail International Service to Jordan.

SUMMARY: Pursuant to an agreement with the postal administration of Jordan, the Postal Service intends to begin Express Mail International Service with Jordan at postage rates indicated in the tables below. Service is scheduled to begin on April 1, 1987.

EFFECTIVE DATE: April 1, 1987.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, [202] 268–2673.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on January 26, 1987 (52 FR 2728), the Postal Service announced that it was proposing to begin Express Mail International Service to Jordan. Comments were invited on published rate tables, which are proposed amendments to the International Mail Manual (incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1), and which are to become effective on the date service begins.

No comments were received. Accordingly, the Postal Service states that it intends to begin Express Mail International Service with Jordan on April 1, 1987 at the rates indicated in the table below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

PART 10—[AMENDED]

The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552[a], 39 U.S.C. 401, 404, 407, 408.

JORDAN EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service up to and including [1] [2]		On demand service up to and including [2]	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	35.90	2	27.90
3	40.80	3	32.80
4	45.70	4	37.70
5	50.60	5	42.60
6	55.50	6	47.50
7	60.40	7	52.40
8	65.30	8	57.30
9	70.20	9	62.20
10	75.10	10	67.10
11	80.00	11	72.00

JORDAN EXPRESS MAIL INTERNATIONAL SERVICE—Continued

Custom designed service up to and including [1] [2]		On demand service up to and including [2]	
Pounds	Rate	Pounds	Rate
12	84.90	12	76.90
13	89.80	13	81.80
14	94.70	14	86.70
15	99.60	15	91.60
16	104.50	16	96.50
17	109.40	17	101.40
18	114.30	18	106.30
19	119.20	19	111.20
20	124.10	20	116.10
21	129.00	21	121.00
22	133.90	22	125.90
23	138.80	23	130.80
24	143.70	24	135.70
25	148.60	25	140.60
26	153.50	26	145.50
27	158.40	27	150.40
28	163.30	28	155.30
29	168.20	29	160.20
30	173.10	30	165.10
31	178.00	31	170.00
32	182.90	32	174.90
33	187.80	33	179.80
34	192.70	34	184.70
35	197.60	35	189.60
36	202.50	36	194.50
37	207.40	37	199.40
38	212.30	38	204.30
39	217.20	39	209.20
40	222.10	40	214.10
41	227.00	41	219.00
42	231.90	42	223.90
43	236.80	43	228.80
44	241.70	44	233.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-4295 Filed 2-27-87; 8:45 am]

BILLING CODE 7710-12-M

39 CFR Part 111

Solicitations in the Guise of Bills, Invoices, or Statements of Account; Republication

[Editorial Note: The following document was originally published at page 5283 in the issue of Friday, February 20, 1987. The document is being republished in its entirety because of errors in the Example.]

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends the regulation implementing statutory provisions on the mailing of solicitations in the guise of bills, invoices, or statements of account. It clarifies an existing regulation by removing possible ambiguity and makes more specific and prominent a required warning regarding the true nature of solicitations which resemble bills.

EFFECTIVE DATE: March 21, 1987.

FOR FURTHER INFORMATION CONTACT: George C. Davis, (202) 268-3076.

SUPPLEMENTARY INFORMATION: On December 22, 1986, the Postal Service published for comment in the **Federal Register** (51 FR 45782) proposed changes to the Domestic Mail Manual which would amend the regulation on the mailing of solicitations in the guise of bills, invoices, or statements of account. Interested persons were invited to submit comments on the proposed changes by January 21, 1987.

Three commenters responded to our invitation, two in writing, one orally, all favorably. In view of this favorable response, the Postal Service hereby adopts the proposal without change, and makes the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 407, 408, 3001-3011, 3201-3219, 3403-3406, 3621, 5001.

2. Revise 123.4 to read as follows:

123.4 Nonmailable Written, Printed or Graphic Matter Generally

.41 Solicitations in the Guise of Bills, Invoices, or Statements of Account (39 U.S.C. 3001(d); 39 U.S.C. 3005). Any otherwise mailable matter which reasonably could be considered a bill, invoice, or statement of account due, but is in fact a solicitation for an order, is nonmailable unless it conforms to .41a through .41f below. A nonconforming solicitation constitutes prima facie evidence of violation of 39 U.S.C. 3005. However, compliance with this section will not avoid violation of Section 3005 if any portion of the solicitation or any accompanying information misrepresents a material fact to the addressee. For example, misleading the addressee as to the identity of the sender of the solicitation or as to the nature or extent of the goods or services offered may constitute a violation of section 3005.

a. The solicitation must bear on its face the disclaimer prescribed by 39 U.S.C. 3001(d)(2)(A) or, alternatively, the notice: THIS IS NOT A BILL. THIS IS A SOLICITATION, YOU ARE UNDER NO OBLIGATION TO PAY THE AMOUNT STATED ABOVE UNLESS YOU ACCEPT THIS OFFER. The statutory disclaimer or the alternative notice must be displayed in conspicuous boldface capital letters of a color prominently contrasting (see .41e below) with the background against which it appears, including all other print on the face of the solicitation, and that are at least as large, bold and conspicuous as any other print on the face of the solicitation but not smaller than 30-point type.

b. The notice or disclaimer required by this section must be displayed conspicuously apart from other print on the page immediately below each portion of the solicitation which reasonably could be construed to specify a monetary amount due and payable by the recipient. It must not be preceded, followed, or surrounded by words, symbols, or other matter that reduces its conspicuousness or that introduces, modifies, qualifies, or explains the prescribed text, such as "Legal notice required by law." See example following paragraph f.

c. The notice or disclaimer must not, by folding or any other device, be rendered unintelligible or less prominent than any other information on the face of the solicitation.

d. If a solicitation consists of more than one page or if any page is designed to be separated into portions (e.g., by tearing along a perforated line), the notice or disclaimer required by this section must be displayed in its entirety on the face of each page or portion of a page that might reasonably be considered a bill, invoice, or statement of account due as required by paragraphs .41a and .41b, *supra*.

e. For purposes of this section, the phrase "color prominently contrasting" excludes any color, or any intensity of an otherwise included color, which does not permit legible reproduction by ordinary office photocopying equipment used under normal operating conditions, and which is not at least as vivid as any other color on the face of the solicitation. For the purposes of this section the term "color" includes black.

f. Any solicitation which states that it has been approved by the Postal Service or by the Postmaster General or that it conforms to any postal law or regulation is nonmailable.

EXAMPLE

SOLICITATIONS INCORPORATED

RETAIL STORES

CAR-RT-SORT
** CR 43
RETAIL STORE
1515 MAIN STREET
ANYWHERE, USA

___ CHECK ENCLOSED
___ BILL ME LATER

X_____
SIGNATURE

IMPORTANT THIS FORM MUST BE RETURNED TO ENSURE YOUR CORRECT DIRECTORY LISTING. Please correct listing and ZIP Code if necessary.

FOLD HERE

MAKE CHECK PAYABLE TO: Solicitations Incorporated, P.O. Box 10000, City, State, ZIP Code

BUSINESS LISTINGS TO APPEAR IN THE 1987 SOLICITATIONS INCORPORATED DIRECTORY

AMOUNT $50.00 FOR EACH LISTING.

THIS IS NOT A BILL.
THIS IS A SOLICITATION.
YOU ARE UNDER NO OBLIGATION
TO PAY THE AMOUNT STATED ABOVE
UNLESS YOU ACCEPT THIS OFFER.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided in 39 CFR 111.3.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-3513 Filed 2-19-87; 8:45 am]

BILLING CODE 1505-01-T

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL-3162-3; TN-038]

Approval and Promulgation of Implementation Plan Tennessee; Nonregulatory Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today approves as a State Implementation Plan (SIP) revision Tennessee's Board Order 12–86, a one-year variance from ambient air quality monitoring of sulfur dioxide at the E.I. DuPont DeNemours and Company (DuPont) facility in Old Hickory, Tennessee. EPA has determined that this variance will not jeopardize attainment of the national ambient air quality standard for SO_2 in the vicinity of this source.

DATE: This action will be effective on May 1, 1987, unless notice is received within 30 days that someone wishes to submit adverse or critical comments. Such notice may be submitted to Ms. Rosalyn Hughes at the EPA Regional Office address listed below.

ADDRESSES: Copies of the material submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlantic, Georgia 30365

Division of Air Pollution Control, Tennessee Department of Health and Environment, Customs House, 4th Floor, 701 Broadway, Nashville, Tennessee 37219.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalyn D. Hughes, Air Programs Branch, EPA Region IV at the above address and telephone number (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: On July 7, 1986, the State of Tennessee submitted seven Board Orders for approval by EPA. The public hearing for the Board Orders was conducted on June 2, 1986. No action will be taken on Board Order 13–86 for Tennessee River Pulp and Paper Company because the one week (May 17–24, 1986) particulate and visible emissions standard variance has expired. Five Board Orders will be addressed at a later date. They are Board Order 14–86, Revision of Open Burning Permits for Holston Army Ammunition Plan in Kingsport, Tennessee; 15–86 and 16–86, Certificate of Alternate Control and Variance for Certificate of Alternate Averaging Times for State Industries, Inc., in Ashland City, Tennessee; 17–86, Regulations for Knox and Shelby Counties; and 18–86, Revision to the Photochemical Oxidants Table 1(c) in the State Implementation Plan (SIP).

The seventh Board Order 12–86, is a one-year variance from the Tennessee Division of Air Pollution Control (Division) rule which required DuPont to install and maintain ambient air quality

monitors for sulfur dioxide in the vicinity of their Old Hickory, Tennessee fuel-burning installation. The monitors were used to oversee compliance with ambient air quality standards stipulated in the Division rules. DuPont cited the uncertainty of the Old Hickory, Tennessee facility's future operation as justification for the variance request. The request was investigated and it was found that the ambient sulfur dioxide impact from DuPont's fuel burning facility was well below what was allowed in the Division's rules. Additionally, the future prospects of continued operation at DuPont suggest diminishing sulfur dioxide impacts over time.

The variance was granted by the State with five stipulations. They are:

1. The sulfur content of coal burned at DuPont's Old Hickory, Tennessee fuel burning installation shall not exceed 2%.

2. DuPont shall not burn more coal at Boiler Numbers 20, 21, 22 and 24 than they reported in their May 5, 1986, variance request.

3. The Board reserves the right to rescind this variance in the event that DuPont alters the stack parameters or sulfur dioxide source emission strength at their Old Hickory, Tennessee fuel burning facility such that the ambient air sulfur dioxide levels would be expected to increase.

4. DuPont shall report to the Technical Secretary on a quarterly basis, in writing, the sulfur content of their fuel and the amount of fuel burned at Boilers 20, 21, 22 and 24.

5. This variance will begin on June 19, 1986, and end on June 18, 1987.

The CRSTER model, a single-source model primarily utilized in simulating the behavior of stack effluents from combustion sources, was used to assess the impact of the variance. The maximum predicted concentrations of sulfur dioxide for key averaging times were below the National Ambient Air Quality Standards (NAAQS). For a three-hour average the maximum predicted concentration was 372.8 ug/m^3 at 0.8 km (NAAQS = 1300 ug/m^3). For a twenty-four hour average the maximum concentration was 76.5 ug/m^3 at 1.5 km (NAAQS = 365 ug/m^3). The annual mean was found to be 7.7 ug/m^3 at 40 km (NAAQS = 80 ug/m^3). The model was run with data based on 1985 conditions at the plant. Therefore, the Board granted the variance because the NAAQS are protected but a stipulation was placed in the variance for DuPoint to maintain the same conditions as in 1985.

Final Action

Since Board Order 12–86 is consistent with EPA policy and requirements, it is hereby approved.

The public should be advised that this action will be effective May 1, 1987. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 1, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. 605(b), I hereby certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Sulfur dioxide, Incorporation by reference.

Note.—Incorporation by reference of the Tennessee State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 20, 1987.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(75) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(75) Board Order 12–86, a one-year variance from SO_2 ambient monitoring by DuPont in Old Hickory, was submitted on July 7, 1986, by the Tennessee Department of Health and Environment.

(i) Incorporation by reference.

(A) Board Order 12–86, which became State-effective on June 19, 1986.

(ii) Other material—none.

[FR Doc. 87–4148 Filed 2–27–87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

41 CFR Part 50–201

General Regulations Under the Walsh-Healey Public Contracts Act

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This rule amends Department of Labor (DOL) regulations to discontinue the use of Standard Form 99, Notice of Award of Contract, and eliminate the requirement for contracting agencies to report to the Wage and Hour Division each contract award subject to the Walsh-Healey Public Contracts Act (PCA). This action is being taken in order to relieve government procurement agencies of paperwork and reporting burdens, since similar data on contract awards can be obtained directly from the Federal Procurement Data System. In addition, minor editorial changes are being made in some sections of the regulations which will correct outdated references and designations of various governmental organizations.

EFFECTIVE DATE: March 2, 1987.

FOR FURTHER INFORMATION CONTACT: Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone: 202–523–8305.

SUPPLEMENTARY INFORMATION: Section 50–201.1201 of Regulations, 41 CFR Part 50–201, requires Federal contracting agencies to submit a report to the Wage and Hour Division each time a contract that is subject to PCA is awarded. Standard Form (SF) 99, Notice of Award of Contract, is the form which was provided for this purpose. In keeping with the goal of reducing paperwork and reporting burdens, the Wage and Hour Division explored the feasibility of obtaining contract award data similar to that which is furnished on SF–99 directly from the automated procurement information system maintained by the Office of Management and Budget's Federal Procurement Data System (FPDS). Negotiations with FPDS resulted

in FPDS resulted in FPDS developing the capability to produce and furnish to the Wage and Hour Division the necessary data identifying contract awards subject to PCA. Part 50–201 is, therefore, being amended to eliminate the requirement contained in section 50–201.1201 for contracting officers to report to DOL each contract award subject to PCA. The reduced administrative burden for the affected procurement agencies resulting from the elimination of SF–99 is expected to produce estimated annual cost savings governmentwide of nearly $410,000.

Other Changes

Corrections of outdated references and designations of governmental organizations have been made in the following sections of the regulations: Sections 50–201.105, 50–201.601(b), 50–201.602, 50–201.1101 and 50–101.1102(a).

Publication in Final/Effective Date

Inasmuch as this revision is a rule of agency organization, procedure, or practice, the requirement of notice and public comment contained in 5 U.S.C. 553(b) is not applicable to this rule. Furthermore, since this rule relieves an existing restriction, it will take effect immediately upon publication. This waiver of the otherwise applicable 30-day delay of the effective date is consistent with 5 U.S.C. 553(d).

Classification

This rule is procedural in character. It is not classified as a "major rule" under Executive Order 12291 on Federal Regulation because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse affects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under the provisions of 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2).

Paperwork Reduction Act

This rule is not subject to section 3504(h), of the Paperwork Reduction Act, 44 U.S.C. 3504(h), since it does not involve the collection of information from the public.

This document was prepared under the direction and control of Paula V. Smith, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 41 CFR Part 50–201

Administrative practice and procedure, Child labor, Government contracts, Government procurement, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

Accordingly, 41 CFR Part 50–201 is amended as set forth below.

Signed at Washington, DC, this 20th day of February 1987.

Susan R. Meisinger,

Deputy Under Secretary for Employment Standards.

Paula V. Smith,

Administrator, Wage and Hour Division.

PART 50–201—GENERAL REGULATIONS

41 CFR 50–201 is amended as follows:

1. The authority citation for Part 50–201 continues to read as follows:

Authority: Sec. 4, 49 Stat 2038; 41 U.S.C. 38. Interpret or apply sec. 6, 49 Stat. 2038, as amended; 41 U.S.C. 40.

§ 50–201.1201 [Reserved]

2. Part 50–201 is amended by removing and reserving § 50–201.1201.

3. Section 50–201.105 is revised to read as follows:

§ 50–201.105 Protection against unintentional employment of underage minors.

An employer shall not be deemed to have knowingly employed an underage minor in the performance of contracts subject to the Act if, during the period of the employment of such minor, the employer has on file an unexpired certificate of age issued and held pursuant to regulations issued by the Secretary of Labor under section 3(1) of the Fair Labor Standards Act of 1938 (29 CFR 570.121), showing that such minor is at least 16 years of age.

4. In § 50–201.601, paragraph (b) is revised to read as follows:

§ 50–201.601 Requests for exceptions and exemptions.

* * * * *

(b) All requests for exceptions or exemptions which relate solely to safety and health standards shall be transmitted directly to the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, DC 20210, or, for those pertaining to coal mines, the Mine Safety and Health Administration, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, VA 22203. All other requests for exceptions or exemptions shall be transmitted to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210.

5. Section 50–201.602 is revised to read as follows:

§ 50–201.602 Decisions concerning exceptions and exemptions.

Decisions concerning exceptions and exemptions shall be in writing and approved by the Secretary of Labor or authorized representative, and shall be transmitted to the department or agency originating the request and to the Comptroller General. All such decisions containing significant issues of general applicability shall be disseminated to all contracting agencies by the Wage and Hour Division, ESA, of the Department of Labor.

6. Section 50–201.1101 is revised to read as follows:

§ 50–201.1101 Minimum wages.

Determinations of prevailing minimum wages or changes therein will be published in the **Federal Register** by the Wage and Hour Division, ESA, of the Department of Labor.

7. In § 50–201.1102, paragraph (a) is revised to read as follows:

§ 50–201.1102 Tolerance for apprentices, student-learners, and handicapped workers.

(a) Apprentices, student-learners, and workers, whose earning capacity is impaired by age or physical or mental deficiences or injuries may be employed at wages lower than the prevailing minimum wages, determined by the Secretary of labor pursuant to section 1(b) of the Public Contracts Act, in accordance with the same standards and procedures as are prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, and by the regulations of the Administrator of the Wage and Hour Division of the

Department of Labor issued thereunder (29 CFR Parts 520, 521, 524, 525, and 528).

* * * * *

[FR Doc. 87-4174 Filed 2-27-87; 8:45 am]
BILLING CODE 4510-27-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC-365-F]

Medicare Program; Changes to the Criteria for Determination of Reasonable Charges

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This rule revises the Medicare regulations governing reasonable charges for payment for the purchase of used durable medical equipment. This revision is intended to encourage the sale of used equipment to Medicare beneficiaries.

In addition, to correct a program inequity and to simplify program administration, we are extending, for services furnished on or after January 1, 1987, one of the provisions of section 9304 of the Consolidated Omnibus Budget Reconciliation Act of 1985. The provision we are extending deals with determining customary charges for physicians who have terminated their compensation agreements with a hospital.

EFFECTIVE DATE: This final rule is effective on April 1, 1987. We refer the reader to section VI.A. of this preamble for a discussion of specific provisions that apply to specific periods.

FOR FURTHER INFORMATION CONTACT:

Ronald Wren, (301) 594-7107, Durable Medical Equipment

Janet McNair, (301) 597-6339, All Other Issues

SUPPLEMENTARY INFORMATION:

I. Background

In 1965, with the addition of title XVIII to the Social Security Act (the Act), the Medicare program was established to pay part of the costs of health care services furnished to eligible beneficiaries. Part A of the program (Hospital Insurance) provides basic health insurance protection against the costs of inpatient hospital care and other inpatient or home health care. Part B of the program (Supplementary Medical Insurance) provides coverage of most physician services and other medical and health services not covered under Part A.

Generally, sections 1814 and 1886 of the Act authorize payment to be made for provider services furnished under Part A on a prospective payment or reasonable cost basis through Medicare contractors known as fiscal intermediaries. Sections 1833 and 1842 of the Act provide that payment for most physician and other medical and health services furnished under Part B is made on a reasonable charge basis through Medicare contractors known as carriers. There are currently some exceptions to the rule of Part B payments made on a reasonable charge basis such as hospital outpatient services, which are reimbursed on a reasonable cost basis, and diagnostic laboratory services, which are reimbursed under a fee schedule.

Under section 1842(b)(3) of the Act, when payment is made on a charge basis, the charge must be "reasonable". In determining the reasonableness of a charge for Medicare purposes, carriers are required to consider the following factors and, in general, payment for the service is to be based on the lowest of these factors:

- The actual charge.
- The customary charge for similar services generally made by the physician or supplier furnishing the service.
- The prevailing charge in the locality for similar services. The prevailing charge may not exceed the 75th percentile of the customary charges of physicians or suppliers in the locality and an economic index limits the annual increases in prevailing charges for physician services.
- Other factors that are necessary and appropriate to use in judging whether the charge is inherently reasonable.
- In the case of medical services, supplies, and equipment that, in the judgment of the Secretary, do not vary widely in quality from one supplier to another, the lowest charge levels at which the services or supplies are widely and consistently available in the locality.

On September 22, 1986, we published a notice of proposed rulemaking (NPRM or proposed rule) in the **Federal Register** (51 FR 33640) to make changes in the regulations governing the reasonable charge methodology (42 CFR Part 405, Subpart E) as follows:

- For services furnished on or after January 1, 1987, the customary charges for physicians who terminate a compensation agreement with a provider would be equal to the methodology used to calculate payment for new physicians rather than the physicians' compensation-related customary charges (§ 405.551).
- The payment limitation on physician services furnished in outpatient settings would be expanded to apply to the services of physicians who are reimbursed on a compensation-related charge basis, and to surgical services that are routinely furnished in physicians' offices and are not included in the list of covered ambulatory surgical center services (§ 405.502).
- The regulations would be revised to allow suppliers to give less than a full warranty to beneficiaries who purchase used durable medical equipment (§ 405.514).

We received 33 timely items of correspondence containing comments on the proposed rule. The contents of the proposed rule, the public comments, and our responses to the comments are discussed below.

II. Determination of Customary Charges For Former Hospital-Compensated Physicians and Other Former Provider-Compensated Physicians

A. Provisions of the Proposed Regulations

Generally, for Medicare purposes, a physician must have actual charge data from at least three months within a charge year in order for a customary charge screen to be computed for the physician. As described in section 5010.4 of the Medicare Carriers Manual (HCFA Pub. 14-3), until a new physician has the minimum three months of actual charges at the time of a regular update, the customary charge for each service furnished by the physician is based on the 50th percentile of the array of weighted customary charges the carrier uses to determine the prevailing charge in the locality for the same service and specialty group. The use of the 50th percentile of weighted customary charges guarantees that the new physician's customary charge for a service is set at a level that is no lower than the customary charges of established physicians with the same specialty who furnished at least 50 percent of those services in the same locality.

However, under § 405.551(e), physicians who lack actual charge data because they were previously compensated by a provider for their services to individual provider patients must retain their compensation-related customary charges until they have accumulated the necessary three months of charge data at the time of a customary charge update. This policy

has been severely criticized by physicians who have recently terminated a compensation agreement with a hospital because, as a result of the physician fee freeze provisions of section 2306 of the Deficit Reduction Act of 1984 (Pub. L. 98–369), section 5(b) of the Emergency Extension Act of 1985 (Pub. L. 99–107), and section 9301 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272), there was no customary charge update from July 1, 1983 until May 1, 1986. Consequently, physicians who terminated agreements with hospitals during that time and just prior to it continued to receive Medicare payment on the basis of their compensation-related customary charges, which are generally lower than the 50th percentile of customary charges

In order to offer these physicians some relief, Congress added section 9304(b) to Pub. L. 99–272. The provisions of section 9304(b) of Pub. L. 99–272 concern the customary charges used to determine payment for services furnished on or after May 1, 1986 and before January 1, 1987 by physicians who have terminated their compensation agreements with hospitals. Under the provisions of section 9304(b)(1), a physician who at any time during the period beginning on October 31, 1982 and ending on January 31, 1985 was a hospital-compensated physician but who was no longer a hospital-compensated physician as of February 1, 1985, has his or her customary charges based on his or her actual charges billed during the 12-month period ending March 31, 1985. However, if the physician was not a participating physician on September 30, 1985 and continued to be nonparticipating as of May 1, 1986, the updated customary charges are deflated by multiplying them by .85. This deflation is to approximate 1982 charge levels, on which other continuing nonparticipating physicians' customary charges are based.

Under section 9304(b)(2) of Pub. L 99–272, a physician who ends his or her compensation agreement with a hospital during the period beginning on February 1, 1985 and ending on December 31, 1986 (who thus does not have three months of actual or direct charge experience during the period April 1, 1984 through March 31, 1985, upon which the May 1, 1986 customary charge update was calculated) has his or her customary charges determined in the same manner as if the physician was a new physician. Thus, for services furnished during the eight-month period beginning on May 1, 1986, these physicians, previously compensated by a hospital, receive the same 50th percentile of customary charges applicable to new physicians, that is, the 50th percentile of the updated or the nonupdated array of customary charges, depending on the physician's participation status. The provisions of section 9304 of Pub. L. 99–272 are self-implementing, and the carriers have been making payment under those provisions.

Since section 9304(b)(2) of Pub. L. 99–272 is effective only through December 31, 1986, this policy is only a temporary deviation from our existing regulatory policy under which provider-compensated physicians who terminate their compensation agreements will continue to be paid on the basis of their compensation-related customary charges until they have accumulated the necessary charge data at the time of a charge update. However, in the September 22, 1986 NPRM, we proposed to extend this policy to apply to services furnished on or after January 1, 1987. As proposed, the customary charges for physicians who terminate a compensation agreement with a provider would be set at the 50th percentile of the array of weighted customary charges the carrier uses to determine the prevailing charge in the locality for the same service and specialty group, until the next regular update at which the physicians have accumulated at least three months of pertinent actual charge data. Although section 9304(b)(2) of Pub. L. 99–272 specified that only hospital-compensated physicians are affected by the temporary policy it set forth, we proposed, for the sake of equity, to extend the policy to all provider-compensated physicians beginning with services furnished on January 1, 1987.

B. Discussion of Comments

We received a total of 26 letters regarding this proposed change. Each of the comments was strongly supportive of the change on the grounds that the use of the 50th percentile for physicians who have terminated a compensation agreement with a provider is—

- More equitable than the use of the compensation-related charge;
- Likely to result in less confusion for both physicians and Medicare carriers; and
- Consistent with Congress' action in section 9304(b)(2) of Pub. L. 99–272 for services furnished prior to January 1, 1987.

However, one commenter expressed concern that a final rule published in the **Federal Register** on October 1, 1986 (51 FR 34975), which made amendments to § 405.551(e), does not reflect the change for former provider-compensated physicians set forth in the September 22, 1986 proposed rule. The commenter indicated that the October 1, 1986 final rule continues to reflect the use of a compensation-related customary charge for these physicians rather than the 50th percentile of customary charges.

The purpose of the October 1 final rule was to implement section 9301(d) of Pub. L. 99–272 by amending the provisions of § 405.551(e) that concern the dates of the fee screen year. Publication of that final rule did not mean that we no longer intend to switch to the use of the 50th percentile customary charge for former provider-compensated physicians effective January 1, 1987. Nor did it mean that we are no longer recognizing the provisions of section 9304(b)(2) of Pub. L. 99–272 concerning use of the 50th percentile of customary charges through December 31, 1986. As a part of this final rule, we are adopting the changes we proposed to make to § 405.551(e) and are revising that section accordingly.

III. Limitation on Payment for Physician Services Furnished in Outpatient Settings

A. Provisions of the Proposed Regulations

In general, Medicare payment that is made on a reasonable charge basis for similar physician services is the same regardless of the setting in which the services are furnished. No payment distinction is made between a service furnished by a physician in his or her office and one furnished by the physician in a hospital or some other facility. However, a physician who furnishes a service in the office setting incurs related office overhead expenses (for example, salaries, equipment, and utilities) that are not incurred by the physician who furnishes services in a facility setting.

Under the authority of sections 1842(b)(3) following (F) and 1861(v)(1)(K) of the Act, regulations located at § 405.502(f) limit payment for physician services in facility outpatient settings to 60 percent of the prevailing charge for the service. The purpose of this limitation is to ensure that Medicare does not make duplicate payments for overhead expenses by paying both the facility and the physician for those overhead expenses. This limit applies to physician services furnished in hospital outpatient departments (including clinics and emergency rooms) and comprehensive outpatient rehabilitation facilities (CORFs) if the services are of the same type as services routinely

furnished in physicians' offices in the local area.

As set forth in current § 405.502(f)(3), the following are the physician services that are not covered by the outpatient limit:

- Rural health clinic services.
- Surgical services furnished in an ambulatory setting.
- Certain services furnished in a hospital emergency room.
- Services of physicians who are reimbursed on a compensation-related charge basis as specified in § 405.551.
- Anesthesiology services.
- Diagnostic and therapeutic radiology services.

In the September 22, 1986 NPRM, we proposed to eliminate the exemptions for the services of physicians who are reimbursed on a compensation-related charge basis, and for ambulatory surgical services not included on the ambulatory surgical center (ASC) list of covered procedures.

B. Discussion of Comments

In response to these proposed changes, we received six items of correspondence. A chief concern of the commenters was the fact that we published a proposed notice in the **Federal Register** on February 16, 1984 (49 FR 6023) seeking suggestions for possible additions or revisions to the current ASC list of covered procedures and that a final notice is under consideration in the Department. The commenters were concerned that if the proposed revisions to the outpatient limit were made final at this time, the limit might be applied to surgical procedures that will be included on the updated ASC list of covered procedures. Based on these comments, we have decided to postpone making any changes to the outpatient limit until the revised ASC list of covered procedures is published. Any changes will be issued in a separate final rule.

IV. Payment For Used Durable Medical Equipment

A. Provisions of the Proposed Regulations

Section 1889 of the Act sets forth the payment rules concerning purchase or rental of new and used durable medical equipment (DME) under the Medicare Part B program. Implementing regulations located at § 405.514 establish three methods of payment for DME: lease-purchase, lump-sum payment for purchase, and rental charges.

As authorized by section 1889(b) of the Act, § 405.514(k) requires the carrier to waive the Part B coinsurance amount for the purchase of used DME if it is at least 25 percent less expensive than new DME. Section 405.514(k)(2) provides that in order to qualify for the waiver, a commercial supplier must furnish the beneficiary with a warranty for the used equipment that is equivalent to the warranty it would offer buyers of comparable new equipment. We included this requirement in the regulations to protect beneficiaries from suppliers that attempt to sell them items that do not meet their needs, are worn out, or are in poor condition.

The DME industry has protested that this requirement is discriminatory and unreasonable. After reassessing this policy, we agree that it may not be reasonable to expect the industry to fully guarantee used equipment; however, we believe that the suppliers are in a good position to determine and ensure the safety and suitability of equipment. Therefore, we proposed to revise § 415.514(k)(2) to require that the supplier need only offer a limited warranty on used DME that provides for the following:

- Guarantee that the used equipment is in good working order and has no defects in workmanship or material.
- If the equipment fails within half the period of time specified by the manufacturer's warranty for new equipment, the supplier would pay for the replacement (including labor costs) of faulty parts or would replace the item of equipment with another.

We believe that this proposal eliminates a large impediment to the sale of used equipment and at the same time provides for continued protection of the beneficiaries.

B. Discussion of Comments

We received five letters that commented on our proposed changes to the DME regulations. In general, the commenters supported the proposal. The specific comments and our responses follow.

Comment: One commenter who agreed that our proposal should encourage the sale of used DME requested that the proposed regulations be revised as follows:

- The warranty requirements should apply to all suppliers and not just commercial suppliers.
- The beneficiary should be protected against the costs of shipping, delivery, or return for warranty covered services.
- A written warranty that is signed and dated by the supplier and specifies the period of warranty should be furnished to the beneficiary.
- The supplier's Medicare claim should include a signed certification that the requirements of § 405.514(k)(2) have been met.

Response: We do not believe that we should modify the term "commercial supplier" because it is our intention to apply the requirements of § 405.514(k)(2) only to commercial suppliers and not to transactions between private individuals. We agree that the beneficiary should not be liable for shipping, delivery, or return costs for warranty covered service and we have amended § 405.514(k)(2)(ii) to include this provision.

We also agree with the commenter that the beneficiary should receive a written warranty that is dated and signed by the supplier and that the supplier should certify on the Medicare claim that all requirements have been met. We believe that requiring suppliers to give a signed and dated warranty is appropriate since it will help both the beneficiary and the carrier determine the length of time during which the supplier is liable under the warranty for repair or replacement of the equipment. We have revised § 405.514(k)(2) accordingly, and we will revise section 5101.3(c) of the Medicare Carriers Manual (HCFA Pub. 14–3) to conform it to the changes in the regulations.

Comment: One commenter believes that it is reasonable to require that all used DME be serviceable for at least one year. Alternatively, if a one-year minimum warranty is not feasible, the commenter suggested that we consider establishing specified warranties for certain categories of DME.

Response: The intent of the proposed change is to encourage the purchase of used equipment. We believe that requiring a minimum period of warranty or establishing specified warranty periods would increase the price of used DME and decrease the amount of used equipment available for sale. If the prices of used DME were to increase, we believe that beneficiaries would not be encouraged to purchase the used equipment since there would not be a substantial savings over the purchase of new equipment to offset the loss of a full warranty.

Comment: One commenter requested that the warranty period for all used DME be set at 90 days. The commenter believes that it is unreasonable to expect suppliers and carriers to track hundreds of separate warranty periods at one-half the warranty period for new equipment.

Response: The warranty requirements set forth in § 405.514(k)(2) do not apply to all DME. They apply only to used equipment that qualifies for the waiver of coinsurance (that is, DME that is 25 percent less expensive than new DME). We did not propose to use a specific

time period for the warranty because warranty periods for DME vary in length from days to years. We do not believe that it is unreasonable to expect suppliers to keep track of the warranty periods for the equipment that they sell. Further, it is our opinion that the use of a percentage (that is, one-half the original warranty period) rather than a specified number of days establishes a more reasonable relationship between various items of used equipment and the extent of warranty protection that suppliers should provide.

Comment: A commenter pointed out that the proposed rule did not specify who would be responsible for making the decision on whether to repair a piece of DME or replace it. The commenter assumes that the supplier would have discretion to make this decision, since the supplier is in the best position to assess the feasibility of repair or replacement.

Response: We agree with the commenter that the supplier should make the decision on whether to repair or replace a piece of DME. We will include this policy in the Medicare Carriers Manual.

Comment: One commenter requested that the regulations be revised to indicate clearly that the warranty for used equipment would cover only those conditions subject to the manufacturer's warranty for new equipment.

Response: We agree with the commenter and have revised § 405.514(k)(2)(ii) accordingly.

Comment: In a general comment on the DME issue, one commenter expressed concern that there is still insufficient charge data on the purchase of used equipment. The commenter stated that in the past carriers have commingled charge data on new and used equipment, and the profiles for used equipment that have resulted from this practice reflect only the lowest priced items. The commenter suggested that HCFA work with the carriers to ensure accurate coding of used equipment and, if necessary, increase the current used equipment prevailing charges that do not meet the standards for inherent reasonableness set forth in a recently issued final rule on Medicare reasonable charges (51 FR 28710 (August 11, 1986)). The commenter believes that the lack of used equipment charge data has produced a prevailing charge that is grossly deficient.

Response: While it is true that there have been instances in the past in which carriers commingled charge data on new and used equipment, we have worked with the carriers to correct this problem and we believe it is no longer an issue. With regard to the inherent reasonableness comment, we believe, and our yearly reviews of DME charges confirm, that the standard rules for calculating reasonable charges for used DME do not result in grossly deficient charges. Therefore, it is not necessary for us to propose a special lower payment limit for used DME under the authority of § 405.502(g).

V. Impact Analysis

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for regulations that meet the criteria for a "major rule". A major rule is one that will result in—

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Based on the available data, we believe that the individual effects of the various provisions contained in this final rule are either negligible or inestimable. We currently do not possess data that permit us to estimate the effect of our decision to permit physicians who terminate their provider compensation agreement to be paid on the basis of the 50th percentile of customary charges rather than their compensation-related customary charges. While we are unable to estimate the impact of this provision on affected physicians, we expect that it will generally benefit physicians by allowing them to receive higher payments for services furnished to beneficiaries. However, those few physicians whose compensation-related charges exceed the prevailing charge in their locality for a particular service will not benefit from the change in the regulations. Nonetheless, we expect the number of physicians who terminate their compensation agreements in any given year to be very small. Therefore, the effect on actual payment is expected to be significantly less than $50 million annually. We expect that the provision to allow suppliers of DME to give less than a full warranty to beneficiaries who purchase used equipment will have no measurable economic effect.

For these reasons, this final rule does not meet the criteria for a major rule. Therefore, we are not preparing a regulatory impact analysis. Also, because the estimated impact of these regulations is not expected to lower payment to physicians or hospitals in FY 1988, they comply with section 9321(d) of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509), which prohibits the Secretary from publishing a final rule or notice between October 21, 1986 and September 1, 1987 that will result in a $50 million or greater reduction in payments to hospitals or physicians for FY 1988.

B. Regulatory Flexibility Analysis

Consistently with the Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 through 612), we prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that their implementation will not have a significant impact on a substantial number of small entities. For purposes of the RFA, we consider all physicians and suppliers of DME to be small entities.

This final rule is expected to affect only a small number of physicians and to have either a negligible or inestimable effect on these physicians. and to have no measurable effect on payment for DME. Therefore, we have determined, and the Secretary certifies, that these regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis has not been prepared.

VI. Other Required Information

A. Effective Dates

The effective date of this final rule is April 1, 1987. However, the changes made to § 405.551(e) concerning payment to physicians who have terminated their provider compensation agreements are applicable to services furnished on or after January 1, 1987.

B. Waiver of 30-Day Delay in Effective Date for Provisions Concerning Physicians Who Terminate Compensation Agreements

We normally provide a delay of 30 days in the effective date for all the provisions of a final rule. However, since section 9304(b)(2) of Pub. L. 99–272 is effective for services furnished only through December 31, 1986, an effective date of later than January 1, 1987 for the changes we are making to § 405.551(e) would mean that these physicians would have to switch from the 50th percentile of customary charges back to compensation-related charges until the provisions were to become effective (that is, on April 1, 1987, along with the other provisions of the final rule). In our

view, this would cause unnecessary confusion for the physicians involved. We also reiterate that all of the comments we received concerning this provision were in favor of it. Moreover, this provision offers financial relief to former provider-compensated physicians, and it will simplify program administration for both carriers and physicians to apply the provision (that is, the changes to § 405.551(e)) beginning with services furnished on or after January 1, 1987. Therefore, for these reasons, we find good cause to waive the usual 30-day delay in effective date because such a delay is impractical and contrary to the public interest.

C. Paperwork Reduction Act

The rule does not impose information collection requirements. Consequently, it need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 405, Subpart E as is amended set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians

1. The authority citation for Subpart E is revised to read as follows:

Authority: Secs. 1102, 1814(b), 1832, 1833(a), 1842 (b) and (h), 1861 (b) and (v), 1862(a)(14), 1866(a), 1871, 1881, 1886, 1887, and 1889 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395k, 1395l(a), 1395u (b) and (h), 1395x (b) and (v), 1395y(a)(14), 1395cc(a), 1395hh, 1395rr, 1395ww, 1395xx, and 1395zz).

§ 405.514 [Amended]

2. Section 405.514 is amended by revising paragraphs (a) and (k)(2) to read as follows:

§ 405.514 Payment for durable medical equipment.

(a) *Purpose.* This section specifies criteria and procedures for making payments for the purchase or rental of new and used durable medical equipment for beneficiaries under Part B of the Medicare program. It implements section 1889 of the Act.

* * * * *

(k) *Waiver of coinsurance for purchase of used equipment.* * * *

(2) If used equipment is purchased from a commercial supplier, the supplier must give the beneficiary a signed and dated warranty that assured the following:

(i) The used equipment is in good working order and has no defects in workmanship or material.

(ii) The supplier pays for the costs of replacement of faculty parts (including labor, shipping, and handling costs) or replaces the item of equipment at no cost if—

(A) The equipment fails within one-half the period of time specified by the manufacturer's warranty for the same equipment when new; and

(B) The failure is one that is covered under that manufacturer's warranty.

* * * * *

3. In § 405.551, paragraph (e) is revised to read as follows:

§ 405.551 Reasonable charges for physician services in providers: General provisions.

* * * * *

(e) *Change of agreements.* For services furnished on or after January 1, 1987, if a physician who has been compensated by or through a provider (or other entity) for physician services to individual patients ends his or her compensation agreement and instead bills all patients, or their insurers, directly for his or her services, the carrier determines the physician's customary charge for a service based on the 50th percentile of the weighted customary charges used to establish the prevailing charge for the service until the carrier has accumulated charge data from at least three months of the 12 month period of July 1 through June 30 preceding the January 1 annual reasonable charge update. However, if a physician terminates a direct billing arrangement and enters into a compensation agreement with a provider, the carrier determines compensation-related customary charges in accordance with paragraph (d) of this section except that during the first year, the total payments made on the basis of the compensation-related charges may not exceed what total payment would have been under the physician's former direct billing practice.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare Supplementary Medical Insurance Program)

Dated: December 24, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: December 31, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 87–4194 Filed 2–27–87; 8:45 am]

BILLING CODE 4120–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 73

[Gen. Docket 85–305; FCC 86–526]

Subscription Television; Change in Classification

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action changes the regulatory classification of Subscription Television from "broadcasting" to "non-broadcasting." A non-broadcast classification, based on the subscription nature of the service, is more in keeping with the distinction between broadcast and non-broadcast services found in the Communications Act of 1934. Other subscription video services would also be classified according to the criteria adopted herein.

EFFECTIVE DATE: April 1, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Martin Blumenthal, Office of General Counsel, (202) 254–6530.

SUPPLEMENTARY INFORMATION:

In the Matter of Subscription Video Services, Gen. Docket 85–305.

This is a summary of the Commission's Report and Order, adopted November 25, 1986, and released February 17, 1987. Additional information is contained in the complete Commission decision which is available for viewing and copying during normal business hours in the FCC Dockets Branch (Room 239) 1919 M Street, NW., Washington, DC 20554. The full text may also be purchased from the Commission's copy contractor, International Transcription Service, 2100 M Street, NW., Suite 140, Washington, DC (202) 857–3800. The public should also be aware that the full text of the Commission's decision is available in the FCC Record, Pike and Fischer Radio Regulations, as well as other commercial research and copying vendors.

Summary of Report and Order

1. The *Notice of Proposed Rulemaking* in this Docket initiated a proceeding to reevaluate the Commission's existing regulatory classification of subscription television (STV) and our interim regulatory classification of certain subscription direct broadcast satellite (DBS) services.[1] Historically, the Commission's *ad hoc* approach to service classification has resulted in the inconsistent treatment of subscription programming services.[2] Before the Commission had the opportunity to address these inconsistencies, the court of appeals reversed the Commission's determination that customers of common carrier DBS licensees were not broadcasters within the meaning of the Communications Act. *NAB* v. *FCC*, 740 F.2d 1190 (D.C. Cir. 1984). In the course of its decision, the court concluded that the Commission's determination in its STV proceedings was dispositive of the broadcast nature of satellite subscription programming services.

2. The *Notice* in this proceeding recognized that the *NAB* v. FCC decision could have considerable impact beyond the services under consideration by the court. FM SCAs, private OFS, common carrier MDS and the uses of excess capacity of ITFS share many of the attributes of STV that the court found to be dispositive in the common carrier DBS and domestic fixed satellite services. Thus, the Commission began a re-examination of the broadcast classification of STV and DBS, as well as, by analogy, to determine the proper regulatory classification for a variety of point-to-multipoint services, including MDS and OFS.

3. After a careful review of the comments and reply comments submitted in response to the *Notice*, we conclude that reclassification of STV and subscription DBS as non-broadcast services would be both legally permissible and more appropriate as a matter of regulatory policy.

4. The court's decision in *NAB* v. *FCC* does not foreclose the Commission's authority to revisit the classification of STV. The court merely concluded that the Commission could not depart, without reasoned explanation, from its previous determination that STV was broadcasting. Moreover, the courts have afforded the Commission considerable flexibility in interpreting the Communications Act and changing previously adopted interpretations, so long as the agency provides a reasoned analysis indicating that the interpretation is being changed rather than merely ignored.

5. Subscription video services like STV may be classified as non-broadcast under the Communications Act of 1934. The Act defines "broadcasting" as the dissemination of radio communications intended to be received by the public. In the context of the Act and the understood usage of the time, broadcasting was used to designate radio services intended for the indeterminate public, as opposed to services intended for specific receive points. This view of the meaning of the Act's definition of "broadcasting" is consistent with leading early cases on the subject. For example, in *Functional Music* v. *FCC*, 274 F.2d 543 (D.C. Cir. 1958) the programming was receivable by anyone, but subscribers were equipped to delete commercial messages. The court found that the service was broadcasting because the licensee intended its signal to be received by the public, although certain members of the public could delete a portion of the programming. On the other hand, in *KMLA* v. *Twentieth Century Cigarette Venders*, 264 F. Supp. 35 (C.D. Cal. 1967) the court concluded that the same type of background music service considered in *Functional Music* was not broadcasting because, it was provided on a subcarrier, available only to paying subscribers.

6. Consistent with these precedents, we conclude that the definition of "broadcasting" in the Communications Act turns on the intent if the purveyor of a service that its programming be available to the indeterminate public. And, where a licensee takes steps to limit access to its service, it demonstrates an intent that the programming not be available to the indeterminate public, Thus, STV and other services which, through technology, limit access to only paying subscribers may be classified as non-broadcast services.

7. We are not unmindful of the fact that the classification of these services as non-broadcast will have other regulatory consequences. As pointed out by the comments, such services would not be subject to the Commission's equal employment opportunity rules. However, since there are only one or two STV stations still in operation, the effect, if any, of reclassification on the employment of protected groups would be *de minimus*. Thus, we do not believe that the applicability of EEO regulations should not be a significant factor in the Commission's classification of these services.

8. Reclassification would also take these services out of the purview of sections 312(a)(7) and 315 of the Communications Act. In this regard, there is no indication that Congress ever intended to include subscription services under the requirements of these political access provisions. Such services generally do not carry political advertising, and, even if they did, subscribers would have ample access to other sources of information concerning candidates. Consequently, in light of the Act's general preference for regulatory policies that enhance, rather than impede, the exercise of a licensee's editorial discretion, *CBS v. Democratic National Committee*, 412 U.S. 94 (1973), and in accordance with our own general policies to foster first amendment rights, we find no legal or policy basis for extending the political access provisions beyond the express requirements of the Act.

9. The Commission will not assert jurisdiction over the customer-programmers who provide subscription services over the facilities of common carriers. The court in *NAB v. FCC* suggested that customer-programmers could be regulated by the Commission, but it does not appear that, under the circumstances, the Commission could or should assert jurisdiction over these entities. *Cf. CBS v. FCC*, 629 F.2d 1 (D.C. Cir. 1980) (applying section 312(a)(7) directly to the television networks).

10. In view of the foregoing, we believe that the approach to service classification, used in our *STV* proceeding, has proved to be an unsatisfactory method of distinguishing between broadcast and non-broadcast services. Rather, under the Act's definition of broadcasting, it should be the *intent* of the program purveyor that controls the classification of the service. We believe that subscription program services like STV exhibit the most significant indicia of the intent of the purveyor that the service not be received by the public. For example, many of these services are not receivable on conventional television sets, and the programming is often encrypted so that, even if it is transmitted on a frequency that is receivable on conventional equipment, it is not enjoyable without the aid of decoders. Finally, the purveyor and its audience are engaged in a private contractural relationship. That relationship, enforced by the need for special equipment and/or decoders,

[1] 51 Fed. Reg. 1817 (January 15, 1986).

[2] For example, STV, Multipoint Distribution Service (MDS), and the Operational Fixed Service (OFS) all provide essentially indistinguishable multiple addressed home entertainment services on a subscription basis, but they are classified as broadcast, common carrier and private services respectively.

obviates the need for the traditional broadcast type regulation that has been developed over the past 40 years. On this basis, STV is herein reclassified as a non-broadcast service.[3] Similarly, subscription DBS services may exhibit the same indicia of an intent to limit access to programming, and they would therefore also be classified as non-broadcast services.

11. Accordingly, it is ordered, that, effective 30 days after publication in the **Federal Register**, Parts 2 and 73 of the Commission's Rules (47 CFR Parts 2 and 73) are amended as set forth.

PART 2—[AMENDED]

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

§ 2.106 [Amended]

2. Section 2.106 is amended by adding the following to the United States Table, Non-Government (column 5), for the frequency bands 54–72 MHz, 76–88 MHz, 174–216 MHz, 470–512 MHz, 512–608 MHz, and 614–806 MHZ:

NG148.

3. Section 2.106 is amended by adding Non-Government (NG) Footnote 148 as follows:

NG148 The frequency bands 54–72 MHz, 76–88 MHz, 174–216 MHz, 470–512 MHz, 512–608 MHz, and 614–806 MHZ are also allocated to the Fixed Service to permit subscription television operations in accordance with Part 73 of the rules.

PART 73—[AMENDED]

4. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

5. Section 73.641 is to read as follows:

§ 73.641 Subscription TV definitions.

(a) *Subscription television.* A system whereby subscription television programs are transmitted and received.

(b) *Subscription television program.* A television program intended to be received in intelligible form only for a fee or charge.

6. Section 73.642 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 73.642 Subscription TV service.

(a) * * *

(1) Licensees and permittees of commercial TV stations, and

* * * * *

(b) A licensee or permittee of a commercial TV station or a low power TV station may begin subscription TV service upon installation of encoding equipment having advance FCC approval. However, the licensee or permittee of a TV broadcast station (not applicable to low power TV stations) must send a letter to the FCC in Washington, DC, that subscription TV service will commence at least 30 days prior to commencement of such service. In that letter, to be entitled "Notice of Commencement of STV Operations," the licensee or permittee is to state that it will comply with the provisions of paragraphs (e)(1) through (e)(3) and § 73.644(c) of this chapter and identify the make and type of encoding system to be used. A similar notice must be submitted if the licensee or permittee commences using another type of encoding system. (See section 644(h).) A notice must also be submitted to the FCC in Washington, DC, if encoded subscription TV service is to be discontinued, at least 30 days prior to such discontinuance.

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–4132 Filed 2–27–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–151; RM–4930]

Radio Broadcasting Service; Hyden, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 222A to Hyden, Kentucky, as that community's first FM channel in response to a petition filed by Ayers Shortt Sales, Inc. With this action, this proceeding in terminated.

DATES: Effect April 6, 1987; The window period for filing applications will open on April 7, 1987, and close on May 6, 1987.

FOR FURTHER INFORMATION CONTACT: D. David Weston (202) 634–6530, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–151, adopted January 30, 1987 and released February 19, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202, paragraph (b), the Table of FM Allotments, is amended for the entry for Hyden, Kentucky, to add Channel 222A.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–4133 Filed 2–27–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 86–163; FCC 87–42]

Private Land Mobile Operation in the 421–430 MHz Band in Detroit, Cleveland and Buffalo

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a Report and Order amending Part 90 of the rules to provide for private land mobile operation in the 421–430 MHz band in the Detroit, Cleveland, and Buffalo urban areas.

EFFECTIVE DATE: March 30, 1987.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Ron Netro, Private Radio Bureau, (202) 634–2443.

This is a summary of the Commission's *Report and Order*, adopted February 2, 1987 and released February 13, 1987.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also

[3] In the past, some STV stations have operated in a conventional mode during portions of the day and in the subscription mode during other times. We do not intend to preclude such operations in the future by either STV or DBS stations. Rather, such hybrids would be considered broadcasters during the hours of conventional operation, subject to all appropriate broadcast regulation. However, during their encoded operations, they would be considered non-broadcasters.

be purchased from the Commission's Copy Contractor, International Transcription Services, (202) 857–3800, 2100 M Street Northwest, Suite 140, Washington, DC 20037.

Summary of Report and Order

1. On April 18, 1986 the Commission adopted a *Notice of Proposed Rule Making* (*Notice*) in PR Docket No. 86–163, 51 FR 17757 (May 15, 1986) that proposed service rules for use of spectrum in the 421–430 MHz band in the Buffalo, Detroit, and Cleveland urban areas. Segments of this band were allocated for private land mobile use in these three urban areas by previous Commission action in Gen. Docket No. 85–113, FR 40016 (October 1, 1985). A total of 6.1 megahertz of spectrum was allocated for use in each of the Detroit and Cleveland areas, and 2.85 megahertz was allocated for use in the Buffalo area. This *Report and Order* (*Report*) adopts final rules for use of this spectrum in the Buffalo, Detroit, and Cleveland areas.

2. The *Report* divides the spectrum into 25 KHz channels and apportions the channels among three pools. Half the channels are assigned to the public safety pool, with the remaining half divided equally between business and industrial/land transportation pools. A single frequency coordinator is designated for each of the three pools. Channels will be assigned to applicants on a shared basis, with no frequency exclusivity afforded any licensee. The *Report* also specifies the areas surrounding the Buffalo, Cleveland, and Detroit urban centers within which the channels may be used. The final rules adopted are listed below.

3. No comments were received that addressed the Initial Regulatory Flexibility Analysis. This proceeding provides additional private land mobile communications capacity in the Detroit, Cleveland, and Buffalo areas. Accordingly, this action will have a positive impact on businesses in these three cities.

4. The decision summarized herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure, or record retention requirements, and will not increase or decrease the burden hours imposed on the public.

5. This action is taken pursuant to sections 4(i), 303(r), and 331 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 332.

List of Subjects in 47 CFR Part 90

Private land mobile radio, Radio.

6. Part 90 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

7. The authority citation of Part 90 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

8. Section 90.17 is amended by adding a paragraph (d)(5) as follows:

§ 90.17 Local Government Radio Service.

* * * * *

(d) * * *

(5) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

9. Section 90.19 is amended by adding a new paragraph (f)(6) as follows:

§ 90.19 Police Radio Service.

* * * * *

(f) * * *

(6) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

10. Section 90.21 is amended by adding a new paragraph (d)(5) as follows:

§ 90.21 Fire Radio Service.

* * * * *

(d) * * *

(5) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

11. Section 90.23 is amended by adding a new paragraph (d)(4) as follows:

§ 90.23 Highway Maintenance Radio Service.

* * * * *

(d) * * *

(4) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

12. Section 90.25 is amended by adding a new paragraph (d)(5) as follows:

§ 90.25 Forestry-Conservation Radio Service.

* * * * *

(d) * * *

(5) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

13. Section 90.53 is amended by adding a new paragraph (c)(5) as follows:

§ 90.53 Frequencies available

* * * * *

(c) * * *

(5) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

14. Section 90.63 is amended by adding a new paragraph (e)(5) as follows:

§ 90.63 Power Radio Service.

* * * * *

(e) * * *

(5) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

15. Section 90.65 is amended by adding a new paragraph (d)(5) as follows:

§ 90.65 Petroleum Radio Service.

* * * * *

(d) * * *

(5) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

16. Section 90.67 is amended by adding a new paragraph (d)(4) as follows:

§ 90.67 Forest Products Radio Service.

* * * * *

(d) * * *

(4) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

17. Section 90.69 is amended by adding a new paragraph (d)(4) as follows:

§ 90.69 Motion Picture Radio Service.

* * * * *

(d) * * *

(4) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

18. Section 90.71 is amended by adding a new paragraph (d)(3) as follows:

§ 90.71 Relay Press Radio Service.

* * * * *

(d) * * *

(3) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

19. Section 90.73 is amended by adding a new paragraph (e)(6) as follows:

§ 90.73 Special Industrial Radio Service.

* * * * *

(e) * * *

(6) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

20. Section 90.75 is amended by adding a new paragraph (d)(5) as follows:

§ 90.75 Business Radio Service.

* * * * *

(d) * * *

(5) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

21. Section 90.79 is amended by adding a new paragraph (e)(4) as follows:

§ 90.79 Manufacturers Radio Service.

* * * * *

(e) * * *

(4) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

22. Section 90.81 is amended by adding a new paragraph (e)(3) as follows:

§ 90.81 Telephone Maintenance Radio Service.

* * * * *

(e) * * *

(3) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

23. Section 90.89 is amended by adding a new paragraph (d)(4) as follows:

§ 90.89 Motor Carrier Radio Service.

* * * * *

(d) * * *

(4) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

24. Section 90.91 is amended by adding a new paragraph (d)(6) as follows:

§ 90.91 Railroad Radio Service.

* * * * *

(d) * * *

(6) Frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

25. Section 90.93 is amended by adding a new paragraph (e) as follows:

§ 90.93 Taxicab Radio Service.

* * * * *

(e) In addition to the frequencies shown in the frequency table of this section, frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

26. Section 90.95 is amended by adding a new paragraph (f) as follows:

§ 90.95 Automobile Emergency Radio Service.

* * * * *

(f) In addition to the frequencies shown in the frequency table of this section, frequencies in the 421–430 MHz band are available in the Detroit, Cleveland, and Buffalo areas in accordance with the rules in §§ 90.273 through 90.281.

27. The following new sections are being added to Subpart K of Part 90 of the Rules:

Subpart K—Standards for Special Frequencies or Frequency Bands

Sec.

* * * * *

Subpart K—Standards for Special Frequencies or Frequency Bands

* * * * *

§ 90.273 Availability and use of frequencies in the 421–430 MHz band.

The frequency bands 422.1875–425.4875 MHz and 427.1875–429.9875 MHz are available for use in the Detroit, Michigan and Cleveland, Ohio areas. The bands 423.8125–425.4875 MHz and 428.8125–429.9875 MHz are available for use in the Buffalo, New York area. Sections 90.273 through 90.281 address the specific rules applicable to these bands. Use of these bands is also subject to the general technical standards and application procedures contained in other subparts of Part 90. The technical standards applicable in this band are the same as those contained in Subpart I of Part 90 for the 450–470 MHz band. Private land mobile use of these frequencies is subject to accepting any interference from Federal Government radiolocation operations.

(a) The following tables list frequencies available for assignment in the public safety, business or industrial/land transportation pools as indicated. In the tables, the public safety pool is denoted as "PS", the business pool as "B", and the industrial/land transportation pool as "I/LT." The frequencies 422.200 MHz through 424.975 MHz are paired with frequencies 427.200 MHz through 429.975 MHz, respectively. Only the lower half of each frequency pair, available for base station operation, is listed in the tables. Corresponding mobile and control station frequencies are 5 MHz higher than the base station frequency. The frequencies 425.000 through 425.475 are unpaired and are available for either single frequency dispatch or paging operations.

TABLE 1—CHANNELS AVAILABLE IN DETROIT AND CLEVELAND AREAS ONLY

Frequency (MHz)	Pool in which assigned
Paired channels:	
422.200	I/LT
422.225	I/LT
422.250	I/LT
422.275	I/LT
422.300	I/LT
422.325	I/LT
422.350	I/LT
422.375	I/LT
422.400	I/LT
422.425	I/LT
422.450	I/LT

TABLE 1—CHANNELS AVAILABLE IN DETROIT AND CLEVELAND AREAS ONLY—Continued

Frequency (MHz)	Pool in which assigned
422.475	I/LT
422.500	I/LT
422.525	I/LT
422.550	I/LT
422.575	I/LT
422.600	B
422.625	B
422.650	B
422.675	B
422.700	B
422.725	B
422.750	B
422.775	B
422.800	B
422.825	B
422.850	B
422.875	B
422.900	B
422.925	B
422.950	B
422.975	B
423.000	PS
423.025	PS
423.050	PS
423.075	PS
423.100	PS
423.125	PS
423.150	PS
423.175	PS
423.200	PS
423.225	PS
423.250	PS
423.275	PS
423.300	PS
423.325	PS
423.350	PS
423.375	PS
423.400	PS
423.425	PS
423.450	PS
423.475	PS
423.500	PS
423.525	PS
423.550	PS
423.575	PS
423.600	PS
423.625	PS
423.650	PS
423.675	PS
423.700	PS
423.725	PS
423.750	PS
423.775	PS
423.800	PS

TABLE 2—CHANNELS AVAILABLE IN BUFFALO, DETROIT AND CLEVELAND AREAS

Frequency (MHz)	Pool in which assigned
Paired channels:	
423.825	PS
423.850	PS
423.875	PS
423.900	PS
423.925	PS
423.950	PS
423.975	PS
424.000	PS
424.025	PS
424.050	PS
424.075	PS
424.100	PS
424.125	PS
424.150	PS
424.175	PS
424.200	PS
424.225	PS
424.250	PS
424.275	PS
424.300	PS
424.325	PS
424.350	PS
424.375	PS
424.400	I/LT
424.425	I/LT

TABLE 2—CHANNELS AVAILABLE IN BUFFALO, DETROIT AND CLEVELAND AREAS—Continued

Frequency (MHz)	Pool in which assigned
424.450	I/LT
424.475	I/LT
424.500	I/LT
424.525	I/LT
424.550	I/LT
424.575	I/LT
424.600	I/LT
424.625	I/LT
424.650	I/LT
424.675	I/LT
424.700	B
424.725	B
424.750	B
424.775	B
424.800	B
424.825	B
424.850	B
424.875	B
424.900	B
424.925	B
424.950	B
424.975	B
Single channels:	
425.000	B
425.025	B
425.050	B
425.075	B
425.100	B
425.125	I/LT
425.150	I/LT
425.175	I/LT
425.200	I/LT
425.225	I/LT
425.250	PS
425.275	PS
425.300	PS
425.325	PS
425.350	PS
425.375	PS
425.400	PS
425.425	PS
425.450	PS
425.475	PS

(b) Channels in the public safety pool are available for assignment to eligibles in the Police, Fire, Local Government, Highway Maintenance, Forestry Conservation, and Special Emergency Radio Services. Channels in the industrial/land transportation pool are available for assignment to eligibles in the Power, Petroleum, Forest Products, Motion Picture, Relay Press, Special Industrial, Manufacturers, Telephone Maintenance, Motor Carrier, Railroad, Taxicab, and Automobile Emergency Radio Services. Channels in the business pool are available to eligibles in the Business Radio Service.

(c) Base or control stations shall be located within 30 miles of the center of Buffalo or 50 miles of the center of Detroit. In Cleveland, base or control stations will be allowed at locations north of line A that are within 30 miles of the city center. In addition, low power (2 watts or less) base stations may locate within 50 miles of the center of Buffalo. The following coordinates shall be used for the centers of these areas:

Buffalo, NY	42°52'52" North latitude. 78°52'21" West longitude.
Cleveland, OH	41°29'51" North latitude. 81°41'5050" West longitude.
Detroit, MI	42°19'48" North latitude. 83°02'75" West longitude.

(d) Mobile operation shall be confined to within 50 miles of the centers of Detroit, Cleveland, or Buffalo.

§ 90.275 Selection and assignment of frequencies in the 421–430 MHz band.

Applicants must specify the frequencies on which the proposed system will operate pursuant to a recommendation by the frequency coordinator designated for the pool in which the requested frequency is assigned.

§90.277 Interpool sharing of 421–430 MHz frequencies.

In the business pool and the industrial/land transportation pool, applicants in one pool may have access to channels in the other pool after March 30, 1988 under the following conditions:

(a) There are no satisfactory channels in the applicant's own pool, as determined by the frequency coordinator for that pool; and

(b) Channels in the pool from which the applicant wishes to obtain a channel must be available in the proposed area of operation, as determined by the frequency coordinator for that pool.

§90.279 Power limitations applicable to the 421–430 MHz band.

(a) Base station authorizations in the 421–430 MHz band will be subject to Effective Radiated Power (ERP) and Effective Antenna Height (EAH) limitations as shown in the table below. ERP is defined as the product of the power supplied to the antenna and its gain relative to a half-wave dipole in a given direction. EAH is calculated by subtracting the Assumed Average Terrain Elevation (AATE) as listed in Table 7 of § 90.619 from the antenna height above mean sea level.

LIMITS OF EFFECTIVE RADIATED POWER (ERP) CORRESPONDING TO EFFECTIVE ANTENNA HEIGHTS (EAH) OF BASE STATIONS IN THE 421–430 MHz BAND

Effective antenna height (EAH) (feet)	Maximum effective radiated power (ERP) (watts)
0–500	250
501–1000	150
1001–1500	75
1501–2000	40
2001–2500	20
2501–3000	15

LIMITS OF EFFECTIVE RADIATED POWER (ERP) CORRESPONDING TO EFFECTIVE ANTENNA HEIGHTS (EAH) OF BASE STATIONS IN THE 421-430 MHz BAND—Continued

Effective antenna height (EAH) (feet)	Maximum effective radiated power (ERP) (watts)
3001-4000	10
Above 4000	5

(b) The maximum transmitter power output that will be authorized for control stations is 20 watts.

§ 90.281 Restrictions on operational fixed stations in the 421-430 MHz band.

(a) Except for control stations, operational fixed facilities will not be authorized in the 421-430 MHz band. This does not preclude secondary fixed tone signaling and alarm operations authorized in § 90.235.

(b) Control stations associated with one or more mobile relay stations will be authorized only on the assigned frequency of the associated mobile station. Use of a mobile service frequency by a control station of a mobile relay system is subject to the condition that harmful interference shall not be caused to stations of licenses authorized to use the frequency for mobile service communications.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-3848 Filed 2-27-87; 8:45 am]

BILLING CODE 6712-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 706, 715 and App. F

[AIDAR Notice 87-6]

Alternative Source Selection Procedures

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: AID's alternative source selection procedures for educational institutions and for collaborative assistance projects are being revised to make it clear that the statutory authority for the procedures is Title XII of the Foreign Assistance Act of 1961, as amended, and that the procedures may be applied only to educational institutions and activities authorized under Title XII.

EFFECTIVE DATE: March 2, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Kelly, M/SER/PPE, Room 1600I, SA-14, Agency for International Development, Washington, DC 20523. Telephone (703) 875-1534.

SUPPLEMENTARY INFORMATION: AID's alternative source selection procedures covering educational institutions (AIDAR 715.613-70) and collaborative assistance projects (AIDAR 715.613-71) are being revised, and the supplemental coverage of collaborative assistance projects in AIDAR Appendix F is being amended, to make it clear that the statutory authority for the procedures is Title XII of the Foreign Assistance Act of 1961, as amended, and that the procedures may be applied only to educational institutions and activities authorized under Title XII.

We do not consider these changes "significant revisions" as covered by FAR 1.5. Based on the information available to us, we believe that our special selection procedures have been applied primarily to institutions and activities authorized under Title XII, so that there is no significant impact on the general public. We are simply amending our regulations to make explicit our normal practice, and to prevent improper application of the procedures.

Further, we do not consider this a "major rule" as defined by Executive Order 12291; it will not result in any of the effects specified in section 1(b) of E.O. 12291.

We have coordinated this AIDAR Notice with the Office of Federal Procurement Policy, and with the Office of Management and Budget as required by section 3 of E.O. 12291.

This Notice will not have an impact on a substantial number of small entities, nor will it require any information collection, as contemplated by the Regulatory Flexibility Act and Paperwork Reduction Act, respectively.

List of Subjects in 48 CFR Parts 706, 715 and Appendix F

Government procurement.

For the reasons set out in the preamble, Chapter 7 of Title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citation in Parts 706, 715 and the Appendices to Chapter 7 are unchanged and continue to read as follows:

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E. O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

PART 706—COMPETITION REQUIREMENTS

Subpart 706.1—[Removed]

2. Subpart 706.1 is removed in its entirety.

PART 715—CONTRACTING BY NEGOTIATION

Subpart 715.6—Source Selection

3. Sections 715.613, 715.613-70 and 715.613-71 are revised to read as follows:

715.613 Alternative source selection procedures.

715.613-70 Title XII selection procedure—general.

(a) *Scope of subsection.* This subsection prescribes policies and procedures for the selection of institutions eligible under Title XII of the Foreign Assistance Act of 1961, as amended, to perform activities authorized under Title XII.

(b) *Applicability.* The provisions of this subsection are applicable when the project office certifies that the activity is authorized under Title XII, and determines that use of the Title XII selection procedure is appropriate.

(c) *Solicitation, evaluation, and selection procedures.* (1) Competition shall be sought among eligible Title XII institutions to the maximum practicable extent; this requirement shall be deemed satisfied when a contractor is selected under the procedures of this subsection.

(2) The project office shall—

(i) Prepare selection criteria for evaluation of eligible institutions for use in preparing the source list, determining predominantly qualified sources, and selecting the contractor;

(ii) Prepare an initial list of eligible institutions considered qualified to perform the proposed activity;

(iii) Provide a statement describing qualifications and areas of expertise considered essential, a statement of work, estimate of personnel requirements, special requirements (logistic support, government furnished property, and so forth) for the contracting officer's use in preparing the request for technical proposal (RFTP).

(iv) Send a memorandum incorporating the certification and determination required by paragraph (b) of this section, together with the information required by paragraphs (c)(2) (i) through (iii) of this section, with the "Action" copy of the PIO/T to the contracting officer, requesting him/her to prepare and distribute the RFTP.

(3) Upon receipt and acceptance of the project officer's request, the contracting officer shall prepare the RFTP. The RFTP shall contain sufficient information to enable an offeror to submit a responsive and complete technical proposal. This includes a definitive statement of work, an estimate of the personnel required, and special provisions (such as logistic support, government furnished equipment, and so forth), a proposed contract format, and evaluation criteria. No cost or pricing data will be requested or required by the RFTP. The RFTP will be distributed to the eligible institutions recommended by the project office. The RFTP will be synopsized, as required by FAR 5.201, and will normally allow a minimum of 60 days for preparation and submission of a proposal.

(4) Upon receipt of responses to the RFTP by the contracting officer, an evaluation committee will be established as provided for in 715.608–70(a) of this subpart.

(5) The evaluation committee will evaluate all proposals in accordance with the criteria set forth in the RFTP, and will prepare a selection memorandum which shall:

(i) State the evaluation criteria;

(ii) List all of the eligible institutions whose proposals were reviewed;

(iii) Report on the ranking and rationale therefor for all proposals;

(iv) Indicate the eligible institution or institutions considered best qualified.

(6) The evaluation committee will submit the selection memorandum to the contracting officer for review and approval.

(7) The contracting officer will either approve the selection memorandum, or return it to the evaluation committee for reconsideration for specified reasons.

(8) If the selection memorandum is approved, the contracting officer shall obtain cost, pricing, and other necessary data from the recommended institution or institutions and shall conduct negotiations. If a satisfactory contract cannot be obtained, the contracting officer will so advise the evaluation committee. The evaluation committee may then recommend an alternate institution or institutions.

715.613–71 Title XII selection procedure—collaborative assistance.

(a) *Scope of subsection.* This subsection prescribes policies and procedures for the selection of institutions eligible under Title XII of the Foreign Assistance Act of 1961, as amended, to perform activities authorized under Title XII, where AID has determined that use of the collaborative assistance contracting system is appropriate.

(b) *Definition.* (1) A collaborative assistance project is any project for which it has been determined under paragraph (d) of this subsection that:

(i) A continuing collaborative relationship between AID, the host country, and the contractor is required from project design through completion of the project. AID, host country, and contractor participation in a continuing review and evaluation of the project is essential for its proper execution; and

(ii) The activity is authorized under Title XII.

(2) The collaborative assistance method is fully defined and discussed in AIDAR Appendix F—Use of Collaborative Assistance Method for Title XII Activities.

(c) *Applicability.* The provisions of this subsection are applicable when the project office makes the determinations required by paragraph (b)(1) of this section.

(d) *Determination.* In order to prepare a contract under the collaborative assistance method, the determinations in paragraph (b)(1) of this section must be made in accordance with the following procedures:

(1) The responsible project office makes a preliminary finding that an activity is authorized by Title XII and should be classed as collaborative assistance in accordance with paragraph (b)(1) of this section.

(2) Based upon this preliminary finding, the project office shall establish an evaluation panel consisting of a representative of the project office as chairman; a representative of the contracting officer; and any other representatives considered appropriate by the chairman.

(3) The evaluation panel will review the proposed project; based on the panel's findings, the chairman will make the formal, written determinations required by paragraph (b)(1) of this section.

(e) *Evaluation and selection.* (1) Competition shall be sought among eligible Title XII institutions to the maximum practicable extent; this requirement shall be deemed satisfied when a contractor is selected under the procedures of this section.

(2) The evaluation panel shall:

(i) Prepare evaluation and selection criteria;

(ii) Prepare an initial source list of eligible institutions considered qualified to perform the proposed project; and

(iii) Evaluate the list, using the evaluation criteria previously determined, for the purpose of making a written determination of the sources considered most capable of performing the project.

(3) The chairman of the evaluation panel will prepare a memorandum requesting the contracting officer to prepare a request for expressions of interest from qualified sources and setting forth:

(i) The formal determinations required by paragraph (b)(1) of this section.

(ii) The evaluation criteria which have been determined; and

(iii) The recommended source list and the rationale therefor.

(4) The contracting officer will prepare a request for an expression of interest (REI), containing sufficient information to permit an offeror to determine its interest in the project, and to discuss the project with AID representatives, if appropriate. The request for expression of interest should include a concise statement of the purpose of the project, any special conditions or qualifications considered important, a brief description of the selection procedure and evaluation criteria which will be used, the proposed contract format, and any other information considered appropriate. The REI will be issued to the sources recommended by the panel, and to others, as appropriate; it will be synopsized, as required by FAR 5.201, and it will normally allow a minimum of 60 days for preparation of an expression of interest. Guidelines for preparation of expressions of interest are contained in Attachment 1 to AIDAR Appendix F.

(5) The contracting officer will transmit all expressions of interest to the evaluation panel for evaluation and selection recommendation. The panel may conduct on site evaluations at its discretion, as part of the evaluation process.

(6) The chairman of the evaluation panel will prepare a written selection recommendation with supporting justification, recommending that negotiations be conducted with the prospective contractor(s) selected by the evaluation panel. The selection recommendation shall be transmitted to the contracting officer together with the complete official file on the project which was being maintained by the evaluation panel.

(7) The contracting officer will review the selection recommendation, obtain necessary cost and other data, and proceed to negotiate with the recommended sources.

Appendixes to Chapter 7

Appendix F—Use of Collaborative Assistance Method for Title XII Activities

3. Appendix F is amended to:

(a) Revise the title of the Appendix to read as set forth above.

(b) Revise paragraph 1, *Introduction*, to read as follows:

1. Introduction

This Appendix provides a detailed description of the collaborative assistance method of contracting. This is a specialized contracting system which may be used for contracting with educational institutions eligible under, and for activities authorized under, Title XII of the Foreign Assistance Act of 1961, as amended, under the circumstances described in AIDAR 715.613–71.

(c) Revise paragraph 2, *Purpose*, to read as follows:

2. Purpose

The collaborative assistance system is designed to:

(a) Increase the joint implementation authority and responsibility of the contractor and the LDC;

(b) Encourage more effective collaboration between all participating parties (AID, host country, and contractor) at important stages, including the design stage of a technical assistance project.

(d) Amend paragraph 3, *Policy* by removing the phrase "educational institution, international research center, or cooperative development organization contractors" from the first sentence, replacing it with the phrase "eligible Title XII institutions".

(e) In Attachment A to Appendix F, amend paragraph C, *Multiple Institution Submissions*, by removing the word "Appendix" wherever it appears, replacing it with "Attachment".

Dated: January 16, 1987.

John F. Owens,

Procurement Executive.

[FR Doc. 87–4108 Filed 2–27–87; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Addition of Species by the Government of Malaysia to Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain species of animal and plants. Appendices I, II, and III to CITES list those species for which trade is controlled. Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other Parties in the control of trade.

The CITES Secretariat has notified the Parties to CITES that the Government of Malaysia has requested the addition to Appendix III of 10 species of the family Phasianidae. This document adds these species to the list of CITES—protected species in the U.S. regulations implementing CITES.

EFFECTIVE DATE: The Appendix III amendment entered into effect on November 13, 1986, under the terms of CITES. Therefore, this rule is effective March 2, 1987.

ADDRESSES: Please send correspondence concerning this notice to the Office of Scientific Authority, Mail Stop: Room 527, Matomic Building, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. Background materials will be available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, in Room 537, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane at the address given above, or telephone (202) 653–5949.

SUPPLEMENTARY INFORMATION: The CITES Secretariat circulated a notification to all Party nations on August 15, 1986, to inform them of the present amendment. In accordance with the provisions of paragraph 1 of Article XVI of CITES, the Government of Malaysia requested the addition to Appendix III of 10 species of the family Phasianidae, all of which are birds native to Malaysia. These requested additions are not subject to a vote of the Parties, but any Party may enter a reservation to any requested species listings. The U.S. Fish and Wildlife Service (Service) requested comments as to whether the United States should enter reservations on any of these species (51 FR 37923; October 27, 1986). No comments with regard to reservations were received. The American Federation of Aviculture did suggest additional common names that are readily recognized by many aviculturists, and some of these names have been added to those listed in the previous **Federal Register** notice.

The Service did not recommend that any reservations be entered. Therefore, in accordance with the provisions of CITES Article XVI, paragraph 2, inclusion of these species in Appendix III took effect on November 13, 1986, i.e., 90 days after the date of the notification by the CITES Secretariat.

Trade in specimens of species included in Appendix III requires export permits from the nation that has included the species in Appendix III. The export of specimens of these species to or from other nations that are Parties to CITES requires the presentation of "certificates of origin", or in the case of re-export, "certificates from the nation of re-export", which are required to show that the specimen was processed in that nation and/or is being re-exported. Trade in any specimen of these species, whether alive or dead, will be covered by the provisions of CITES, as will trade in any readily recognizable part or derivative.

Note.—The Department has determined that amendments to CITES appendices, which result from actions of the Parties to CITES, do not require the preparation of Environmental Assessments as defined under authority of the National Environmental Policy Act (42 U.S.C. 4321–4347); 516 DM 2, Appendix I, section 1.10. The Department also has determined that this listing action is not a rule for purposes of Executive Order 12291, and that the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the Paperwork Reduction Act of 1980 (Pub. L. 96–511) do not apply to this listing process.

This rule implements changes in the listings in Appendix III of CITES that were requested by the Government of Malaysia and that the United States is bound to accept, unless it entered a reservation. An earlier **Federal Register** publication informed the public about these changes and allowed an opportunity for comment on them. No reservation to these listings was made by the United States, and the indicated changes to Appendix III of CITES became effective on November 13, 1986. In the interest of maintaining an accurate list of CITES-protected species in 50 CFR Part 23, an immediate amendment to the regulatory list of species is required. Therefore, the Department of the Interior has determined that good cause exists for making this rule effective upon publication (5 U.S.C. 553(d)).

This notice was prepared by Dr. Charles W. Dane, Chief, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Marine mammals, Plants (agriculture), Treaties.

Regulation Promulgation

For reasons set out in the preamble of this notice, the Service amends the list of species contained in § 23.23 of Title 50, Code of Federal Regulations, as set forth below.

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249; and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531–1543.

§ 23.23 [Amended]

2. Amend the list of species contained in § 23.23(f) of Title 50 of the Code of Federal Regulations by adding to the list the following species in alphabetical order under the indicated taxonomic category:

Species	Common Name	Appendix	Date listed (month/day/year)
*	*	*	*
CLASS AVES.	BIRDS		
*	*	*	*
Order Galliformes.	Pheasants, Curassows, Megapodes, Hoatzins		
*	*	*	*
Arborophila brunneopectus.	Bar-backed partridge, or bare-throated tree partridge.	III (Malaysia)...	Nov. 13, 1986.
*	*	*	*
Caloperdix oculea.	Ferruginous wood partridge.	....do.....	Do.
*	*	*	*
Lophura erythrophthalma.	Crestless fireback.	....do.....	Do.
*	*	*	*
Lophura ignita.	Crested fireback.	....do.....	Do.
*	*	*	*
Melanoperdix nigra.	Black wood partridge.	....do.....	Do.
*	*	*	*
Polyplectron inopinatum.	Rothschild's peacock pheasant, or mountain peacock pheasant.	....do.....	Do.
*	*	*	*
Rheinartia ocellata.	Rheinart's crested argus or crested argus pheasant.	....do.....	Do.
*	*	*	*
Rhizothera longirostris.	Long-billed partridge.	....do.....	Do.
*	*	*	*
Rollulus rouloul.	Crested wood partridge, or rouloul, or green-winged wood partridge.	....do.....	Do.
*	*	*	*
Tropicoperdix (=Arborophila) charltonii.	Scaly-breasted partridge, chestnut-breasted tree partridge.	....do.....	Do.
*	*	*	*

Dated: February 15, 1987.

P. Daniel Smith,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–4296 Filed 2–27–87; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 52, No. 40
Monday, March 2, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give nterested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 55, 56, 59, and 70

Increase in Fees and Charges; Egg, Poultry, Rabbit Grading, etc.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to revise charges for Federal voluntary egg products inspection; egg, poultry, and rabbit grading; and laboratory services; and the rates for Federal mandatory egg products inspection overtime and appeal services. These charges would be increased to reflect higher costs associated with these programs due to the increase in salaries of Federal employees allocated by Congress under the Federal Pay Comparability Act of 1970, and the increased costs associated with the new Federal Employees Retirement System.

DATE: Comments must be received on or before March 17, 1987.

ADDRESS: Written comments may be mailed to DMM. Holbrook, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3944, South Agriculture Building, Washington, DC 20250. (For further information regarding comments, see "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Larry W. Robinson, Chief, Grading Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3938, South Agriculture Building, Washington, DC 20250, (202) 447–3271.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

An initial determination has been made that this proposed rule is not a major rule under Executive Order 12291. It will not (i) Result in an annual effect on the economy of $100 million or more; (ii) result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (iii) have significant effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule has been reviewed for cost effectiveness under U.S. Department of Agriculture procedures established in Departmental Regulation 1512–1 implementing Executive Order 12291. It would increase fees and charges to cover escalating costs of providing Federal voluntary grading, inspection, and laboratory services and Federal mandatory egg products inspection overtime and appeal services. Federal laws require that users pay for these services. It is anticipated that these increases will not have a significant economic effect on producers, packers, and consumers. Alternatively, the Agency could request appropriations to subsidize voluntary programs and deny overtime and appeal egg products inspection services. However, such actions would require a change in the law and would increase Federal expenditures. Furthermore, any denial or disruption of grading/inspection services due to inadequate fees and charges could result in adverse impacts on the orderly marketing of poultry, rabbits, eggs, and egg products and on the quality of products available to consumers.

Effect on Small Entities

The Administrator, Agricultural Marketing Service, has determined that this proposed action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because (i) The fees and charges merely reflect, on a cost-per-unit-graded/inspected basis, a minimal increase in the costs currently borne by those entities utilizing the services; and (ii) competitive effects are offset under the major voluntary programs (resident shell egg and poultry grading) through administrative charges based on the volume of product handled; i.e., the cost to users increases in proportion to increased volume.

Comments

Interested persons are invited to submit written comments concerning these proposed amendments. Comments must be sent in duplicate to the Standardization Branch and should bear a reference to the date and page of this issue of the **Federal Register.** Comments submitted pursuant to this document will be made available for public inspection in the Washington, DC, Standardization Branch during regular business hours.

Background and Proposed Changes

Each fiscal year, the fees for services rendered to operators of official poultry, rabbit, shell egg, and egg products plants by the Agricultural Marketing Service (AMS) are reviewed. A cost analysis is performed to determine if such fees are adequate to recover the cost of providing the services. The fees are determined by the employee's salary and fringe, cost of supervision, travel, and other overhead and administrative costs.

The Agricultural Marketing Act of 1946, as amended, provides for the collection of fees approximately equal to the cost of providing Federal voluntary egg products inspection; voluntary egg, poultry, and rabbit grading; and laboratory services. The Egg Products Inspection Act requires that the cost for overtime and appeal inspections be borne by the user of the service.

The last fee increase was effective on February 1, 1985. Since then, costs for workers' compensation have increased by about 25 percent, Federal employees salaries were increased by 3.0 percent in January 1987, salaries of federally licensed State employees have increased by about 5.5 percent, and costs have increased due to the new Federal Employees Retirement System (FERS) which became effective in January 1987. Under this system, the Agency is required to pay the full contribution for retirement benefits for employees hired before January 1, 1984, who convert to FERS, and for all employees hired on or after January 1, 1984, who are automatically enrolled in FERS. Previously, a portion of these costs was subsidized by an appropriation to another Federal agency. AMS' contribution for retirement benefits can increase by as much as 15.5 percent. Finally, the

charges must be adjusted upward to cover losses incurred between January of this year and the planned effective date of the increase which is projected to be May 1987.

With the exception of salary increases for federally licensed State graders, costs of supervision and other overhead and administrative costs have also increased for the reasons described above. They are covered by an administrative service charge assessed on each case of shell eggs and each pound of poultry handled in plants using resident grading service. In 1984, these rates were established at $.025 per case of shell eggs and $.00025 per pound of poultry. These rates would be changed to $.026 per case of shell eggs and $.00026 per pound of poultry. Also, these charges were set at a minimum of $125 and maximum of $1,250 per billing period for each official plant. It is proposed to change these amounts to $130 and $1,300, respectively.

Due to the situations described above, the hourly rate for nonresident voluntary grading and inspection service would be increased from $21.88 to $23.20. Likewise, the rate for such services performed on Saturdays, Sundays, or holidays would be increased from $23.68 each to $24.92. The hourly rate for voluntary appeal gradings or inspections is increased from $19.92 to $20.28. The hourly.rate for laboratory analyses for other than individual tests would be increased from $25.48 to $29.32, and the fees for individual tests would be increased approximately 15 percent. The hourly rate for mandatory overtime inspection service would be increased from $17.32 to $20.52. The hourly rate for certain mandatory appeal egg product inspections would be increased from $19.92 to $20.28. Administrative charges for the resident voluntary rabbit grading and egg products inspection programs and nonresident voluntary continuous poultry.and egg grading programs will continue to be based on 25 percent of the grader's or inspector's total salary costs. The minimum charge per billing period for these programs would be increased from $120 to $130 per official plant.

With respect to laboratory fees, § 55.550, paragraph (a) would be revised to expand the range of charges for the *E coli* (presumptive) analysis. The previous fee schedule did not provide for all possible combinations of charges which occasionally resulted in incorrect charges for the test. The proposed change would provide the flexibility for the proper determination of *E coli* analysis charges.

Overall, fees and charges would be increased about 5 percent.

Information Collection Requirements and Recordkeeping

Information collection requirements and recordkeeping provisions contained in 7 CFR Parts 55, 56, 59, and 70 have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35, and 7 CFR Part 55 has been assigned OMB No. 0581–0146; and 7 CFR Part 56 has been assigned OMB No. 0581–0128; and 7 CFR Part 59 has been assigned OMB No. 0581–0113; and 7 CFR Part 70 has been assigned OMB No. 0581–0127.

List of Subjects

7 CFR Part 55

Egg products, Voluntary inspection service.

7 CFR Part 56

Shell eggs, Voluntary grading service.

7 CFR Part 59

Shell eggs, Egg products, Mandatory inspection service.

7 CFR Part 70

Poultry, Poultry products, Rabbit products, Voluntary grading service.

For reasons set out in the preamble and under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), and the Egg Products Inspection Act (21 U.S.C. 1031–1056), it is proposed to amend Title 7, Parts 55, 56, 59, and 70 of the Code of Federal Regulations as follows:

PART 55—VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING

1. The authority citation for Part 55 continues to read as follows:

Authority: Secs. 202–208 of the Agricultural Marketing Act of 1946, as amended, (60 Stat. 1087–1091; 7 U.S.C. 1621–1627).

2. Section 55.510 is amended by revising paragraphs (b), (c), and (d) to read as follows:

§ 55.510 Fees and charges for services other than on a continuous resident basis.

* * * * *

(b) Fees for product inspection and sampling for laboratory analysis will be based on the time required to perform the services. The hourly charge shall be $23.20 and shall include the time actually required to perform the sampling and inspection, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $24.92 per hour. Information on legal holidays is available from the Supervisor.

(d) The cost of an appeal grading, inspection, laboratory analysis, or review of a grader's or inspector's decision shall be borne by the appellant at an hourly rate of $20.28 for time spent performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, inspection, laboratory analysis, or review of a grader's or inspector's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

3. Section 55.550 is revised to read as follows:

§ 55.550 Laboratory analysis fees.

(a) The fees listed for the following individual laboratory analyses cover costs involved in the preparation and analysis of the product, certificate issuance, and personnel and overhead costs other than the expenses listed in § 55.530.

	Fee
Solids	$14.66
Fat	29.32
Bacteriological plate count	14.66
Bacteriological direct count	29.32
Coliforms: [1]	
Step 1	21.99
Step 2	21.99
E. coli (presumptive): [2]	
In addition to coliform analysis:	
Step 1	([3])
Step 2	21.99
Without coliform analysis:	
Step 1	21.99
Step 2	21.99
Yeast and mold count	14.66
Sugar	36.65
Salt	36.65
Color:	
NEPA	21.99
B-Carotene	29.32
Whipping test	14.66
Whipping test plus bleeding	21.99
Fat film test	36.65
Oxygen	14.66
Glucose:	
Quantitative	29.32
Qualitative	21.99
Palatability and odor:	
First sample	14.66
Each additional sample	7.33
Staphylococcus	43.98
Salmonella: [4]	
Step 1	29.32
Step 2	14.66
Step 3	29.32

[1] Coliform test may be in two steps as follows: Step 1—presumptive test through lauryl sulfate tryptose broth; Step 2—confirmatory test through brilliant green lactose bile broth.

[2] E. coli test may be in two steps as follows: Step 1—presumptive coliform test through lauryl sulfate tryptose broth; Step

2—presumptive E. coli test through eosin-methylene blue agar.

[3] No charge.

[4] Salmonella test may be in three steps as follows: Step 1—growth through differential agars; Step 2—growth and testing through triple- sugar-iron and lysine-iron agars; Step 3—confirmatory test through biochemicals.

(b) The fee charge for any laboratory analysis not listed in paragraph (a) of this section, or for any other applicable services rendered in the laboratory, shall be based on the time required to perform such analysis or render such service. The hourly rate shall be $29.32.

4. Section 55.560 is amended by revising paragraph (a)(3) to read as follows:

§ 55.560 Charges for continuous inspection and grading service on a resident basis.

* * * * *

(a) * * *

(3) An administrative service charge equal to 25 percent of the grader's or inspector's total salary costs. A minimum charge of $130 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

5. The authority citation for Part 56 continues to read as follows:

Authority: Secs. 202–208 of the Agricultural Marketing Act of 1946, as amended, (60 Stat. 1087–1091; 7 U.S.C. 1621–1627).

6. Section 56.46 is amended by revising paragraphs (b) and (c) to read as follows:

§ 56.46 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $23.20 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $24.92 per hour. Information on legal holidays is available from the Supervisor.

7. Section 56.47 is revised to read as follows:

§ 56.47 Fees for appeal grading or review of a grader's decision.

The cost of an appeal grading or review of a grader's decision shall be borne by the appellant at an hourly rate of $20.28 for time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

8. Section 56.52 is amended by revising paragraph (a)(4) to read as follows:

§ 56.52 Continuous grading performed on a resident basis.

* * * * *

(a) * * *

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $.026, except that the minimum charge per billing period shall be $130 and the maximum charge shall be $1,300. The minimum charge also applies where an approved application is in effect and no product is handled.

9. Section 56.54 is amended by revising paragraph (a)(2) to read as follows:

§ 56.54 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $130 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

10. The authority citation for Part 59 continues to read as follows:

Authority: Secs. 2–28 of the Egg Products Inspection Act (84 Stat. 1620–1635; 21 U.S.C. 1031–1056).

11. Section 59.126 is revised to read as follows:

§ 59.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day, or on a day outside the established schedule, such services are considered as overtime work. The official plant shall give reasonable advance notice to the inspector of any overtime service necessary and shall pay the Service for such overtime at an hourly rate of $20.52 to cover the cost thereof.

12. Section 59.370 is amended by revising paragraph (b) to read as follows:

§ 59.370 Cost of appeals.

* * * * *

(b) The costs of an appeal shall be borne by the appellant at an hourly rate of $20.28, including travel time and expenses if the appeal was frivolous, including but not being limited to the following: The appeal inspection discloses that no material error was made in the original inspection, the condition of the product has undergone a material change since the original inspection, the original lot has changed in some manner, or the Act or these regulations have not been complied with.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND U.S. CLASSES, STANDARDS, AND GRADES

13. The authority citation for Part 70 continues to read as follows:

Authority: Secs. 202–208 of the Agricultural Marketing Act of 1946, as amended (60 Stat. 1087–1091; 7 U.S.C. 1621–1627).

14. Section 70.71 is amended by revising paragraphs (b) and (c) to read as follows:

§ 70.71 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $23.20 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $24.92 per hour. Information on legal holidays is available from the Supervisor.

15. Section 70.72 is revised to read as follows:

§ 70.72 Fees for appeal grading, laboratory analysis, or examination or review of a grader's decision.

The costs of an appeal grading, laboratory analysis, or examination or review of a grader's decision will be borne by the appellant at an hourly rate of $20.28 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, laboratory analysis, or

examination or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

16. Section 70.76 is amended by revising paragraph (a)(2) to read as follows:

§ 70.76 Charges for continuous poultry grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $130 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

17. Section 70.77 is amended by revising paragraphs (a)(4) and (5) to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $.00026, except that the minimum charge per billing period shall be $130 and the maximum charge shall be $1,300. The minimum charge also applies where an approved application is in effect and no product is handled.

(5) For rabbit grading: An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $130 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

Done at Washington, DC on: February 24, 1987.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 87-4188 Filed 2-27-87; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 917

Fresh Pears, Plums, and Peaches Grown in California; Pear Commodity Committee Representation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The proposed rule would reallocate the membership on the Pear Commodity Committee and re-group certain districts, for purposes of representation, within the production area. The changes reflect the relative quantity of pears shipped from the respective representation areas. This action was unanimously recommended by the Pear Commodity Committee established under this order.

DATE: Comments must be received by March 12, 1987.

ADDRESS: Comments should be sent to: Docket Clerk, Room 2085-S, F&V, AMS, U.S. Department of Agriculture, Washington, DC 20250. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; (202) 447-5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action would not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (the Act, 7 U.S.C. 601-674), and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that 43 pear handlers under the marketing order for fresh pears, plums, and peaches grown in California will be subject to regulation during the course of the current season. In addition, there are about 430 pear producers in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $100,000 and agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of producers and handlers may be classified as small entities.

This action is administrative in nature in that it would redefine the representation areas and reallocate the membership on the Pear Commodity Committee accordingly. It would more accurately reflect representation on the committee according to the provisions of the order and regulations. It does not impose any additional costs on growers or handlers of pears.

This proposed rule is issued under Marketing Order No. 917 regulating the handling of pears, plums, and peaches grown in California. The action is based upon the recommendation and information submitted by the Pear Commodity Committee and upon other available information.

Under the order and regulations, the production area is divided into five areas for purposes of representation on the 14-member Pear Commodity Committee. One pubic member is included in the total number of members. These areas are specified in paragraphs (a) through (e) of § 917.121. The number of members from each area and the grouping of the districts within each area are based, insofar as practicable, upon the proportionate quantity of pears shipped from the respective areas during the preceding three fiscal years. Section 917.35(g) of the order authorizes the Pear Commodity Committee, with the approval of the Secretary, to redefine the representation in any area. Any such changes are to be based, so far as practicable, upon the proportionate quantity of fruit shipped from the respective respresentation area during the three preceding fiscal periods. In addition, so far as practicable, a member position should be assigned to any representation area from which 5 percent of shipments originated during the appropriate periods.

The proposal would reduce the number of representation areas to four by combining area "a" (the North Sacramento Valley District and Central Sacramento Valley District) with area "e" (the Placer-Colfax District, the El Dorado District and the representation area covering the balance of the State). Membership from the combined area would be reduced from two members to one member. The proposal would also increase from two to three the number of members representing area "d" (the Mendocino District and the North Bay District).

The reason for this proposal is more accurate alignment of the districts

within the areas of representation in accordance with the proportionate quanity of pears shipped. During the immediately preceding three years (1984–86), pear shipments totaled 12,089 cars. During that period, area "d", with two members, accounted for 3,026 cars or 25 percent of the total. Areas "a" and "e" combined, with their two members, accounted for 740 cars or 6.1 percent of the total shipments. Area "b", with two members accounted for 2921 cars or 24.2 percent of the total. Area "c", with 6 members, accounted for 5402 cars or 44.7 percent of the total. For this reason, it wourld be appropriate to realign the districts as proposed.

Section 917.121 was amended and published in the Federal Register on October 8, 1985 (50 FR 40961). That amendment deleted paragraph (f). However, paragraph (f) was inadvertently published in the Code of Federal Regulations, revised as of January 1, 1986. Therefore, this action would also delete paragraph (f) from § 917.121.

A 10-day comment period is deemed adequate because the Pear Commodity Committee's term of offie ends February 28, 1987 and it is necessary that the new committee be selected in accordance with any changes adopted pursuant to this action.

List of Subjects in 7 CFR Part 917

Marketing agreements and orders, Pears, California.

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 917 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 917.121 is revised to read as follows:

§ 917.121 Changes in nomination of Pear Commodity Committee members.

Nominations for membership on the Pear Commodity Committee shall be made by the growers of pears in the respective representation areas as follows:

(a) North Sacramento Valley District, Central Sacramento Valley District, Placer-Colfax District, El Dorado District, and all of the production area not included in paragraph (b) through (d) of this section, one nominee.

(b) Sacramento River District, Stockton District, Stanislaus District, Contra Costa District, Santa Clara District and Solano District, three nominees.

(c) Lake District, Six nominees.

(d) Mendocino District and North Bay District, three nominees.

Dated: February 18, 1987.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–4266 Filed 2–27–87; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 932

Olives Grown in California; Redistricting and Reapportionment of Producer Member Positions on the California Olive Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would redistrict and reapportion the eight producer member positions and alternates on the California Olive Committee (COC). The changes are intended to provide equitable representation throughout the production area.

DATE: Comments must be received by March 12, 1987.

ADDRESS: Comments should be sent to: Docket Clerk, Room 2085, South Building, U.S. Department of Agriculture, Washington, DC 20250–1400. Three copies of all written material should be submitted and they shall be available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250–1400; Telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action would not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (the Act, 7 U.S.C. 601–674), and rules promulgated thereunder, are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that seven handlers of California olives are subject to regulation under the marketing order for olives grown in California. In addition, there are approximately 1500 producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less that $100,000. Handlers are considered small entities if gross annual revenues are less that $3,500,000. The majority of California olive producers and handlers can be classified as small entities.

The Administrator of AMS has considered the impact of this regulatory action on small entities. The regulatory action in this instance is a proposed rule that would redistrict and reapportion the producer member positions and alternates on the California Olive Committee (COC). This proposal is primarily of an administrative nature and, as such, does not impose any additional costs on handlers or producers.

This proposal is issued under the Marketing Agreement and Order No. 932 (7 CFR Part 932), both as amended, regulating the handling of olives grown in California. The agreement and order are effective under the Act. This action was recommended by the COC at its meeting of December 2, 1986. It is hereby found that this action will tend to effectuate the declared policy of the Act.

The order provides for a committee consisting of 16 members (and alternates); eight members represent producers, and eight members represent handlers. The order further provides that the committee, with the approval of the Secretary, may redefine the districts into which the area has been divided (for purposes of producer representation) and may reapportion the membership to reflect insofar as practicable shifts in olive acreage within the districts and area, the numbers of growers in the districts, and the tonnage produced which are equitable to producers.

The committee believes that redistricting and reapportioning the eight producer member positions and alternates would provide equitable representation throughout the production area. The committee based this recommendation on the current production, number of producers, and acreage as required under the marketing order. For example, the committee noted

that District II currently represents about 65 percent of the average production, number of producers, and acreage. The committee believes that the formation of a new producer district to represent Tulare County (currently part of District II) would provide equitable representation throughout the production area because that county represents over 45 percent. District III, representing less than 10 percent, however, is disproportionately represented with two members.

Thus, as recommended by the committee, the following changes should be established: District 2, reduce the number of producer members and alternates from four to one and exclude Tulare County from the district boundaries; District 3, reduce the number of producer members and alternates from two to one with no change in the boundaries; and create a new District 4 comprised of Tulare County and represented by four producer members and alternates. The committee recommended no change in representation (two members) or boundaries for District 1.

It is hereby found that a 10-day comment period is sufficient under the circumstances. This is necessary so that any final rule may be implemented before producer vote by mail ballot on COC nominees, scheduled March 13, 1987. Moreover, there is insufficient time between the date when information became available upon which this action is based and the effective date necessary to effectuate the declared policy of the Act. The recommendation and supporting information for this action were promptly submitted to the Department after a meeting of the committee open to the public. Information regarding specifications of this action has been provided to handlers, and this action is identical with the recommendation of the committee. Compliance with this action will not require any special preparation by the persons subject thereto.

List of Subjects in 7 CFR Part 932

Marketing agreements and orders, Olives, California.

PART 932—[AMENDED]

1. The authority citation for 7 CFR Part 932 would continue to read as follows:

Authority: Secs. 1- 19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 932.121 would be added to read as follows:

§ 932.121 Producer districts.

Pursuant to the authority in § 932.35(k), commencing with the term of office beginning June 1, 1987, "district" means any of the following geographical areas of the State of California:

(a) "District 1" shall include the counties of Glenn, Tehama, and Shasta.

(b) "District 2" shall include the counties of Mono, Mariposa, Merced, San Benito, Monterey, and all counties south thereof excluding Tulare County.

(c) "District 3" shall include all the counties of Alpine, Tuolumne, Stanislaus, Santa Clara, Santa Cruz, and all counties north thereof except those in District 1.

(d) "District 4" shall include the county of Tulare.

3. A new § 932.125 would be added to read as follows:

§ 932.125 Producer representation on the committee.

Pursuant to the authority in §§ 932.25 and 932.35(k), commencing with the term of office beginning June 1, 1987, representation shall be apportioned as follows:

(a) District 1 shall be represented by two producer members and alternates.

(b) District 2 shall be represented by one producer member and alternate.

(c) District 3 shall be represented by one producer member and alternate.

(d) District 4 shall be represented by four producer members and alternates.

Dated: February 24, 1987.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–4320 Filed 2–27–87; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 946

Irish Potatoes Grown in Washington; Proposed Amendment No. 5 to Handling Regulation; Exemption for Certain Varieties of Potatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would exempt shipments of non-white fleshed varieties of potatoes from the marketing order's handling and assessment regulations. The proposal was recommended by the State of Washington Potato Committee. The committee concluded that it was impractical to apply handling and assessment regulations to such shipments because non-white fleshed potatoes are produced in negligible quantities, these varieties supply a specialized market, and are not competitive with other tablestock potato varieties. The committee works with the Department of administering the marketing order program.

DATE: Comments must be received by April 1, 1987.

ADDRESS: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2085–S, U.S. Department of Agriculture, Washington, DC 20250. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been designated to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that 60 handlers of Washington potatoes under the marketing order for potatoes grown in Washington will be subject to regulation during the course of the current season. In addition, there are about 361 producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $100,000 and agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of these firms may be classified as small entities.

This proposed rule would exempt shipments of non-white fleshed varieties of Washington potatoes from the handling and assessment regulations of

the order. There is a negligible production of these varieties. They have a limited market and are noncompetitive with other tablestock varieties. The non-white fleshed varieties, which are the subject to this action, have accounted for about 1.3 percent of the fresh market shipments in past seasons; and this small production is expected to continue.

The Administrator of the Agricultural Marketing Service has considered the economic impact of this action on small entities. This action would reduce the handling and assessment restriction burdens on handlers of non-white fleshed potatoes by exempting shipments of such potatoes from such regulations. Freeing such shipments from these regulations would make it easier for handlers to meet the limited buyer needs for these potatoes. Because this action reduces regulatory burdens on handlers, it is not expected to result in additional handler costs.

The marketing agreement and Order No. 946 (7 CFR Part 946) regulate the handling of Irish potatoes grown in the State of Washington. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The State of Washington Potato Committee, established under the order, is responsible for its local administration.

The committee believes that the proposed exemption would facilitate sales of non-white fleshed potatoes and benefit the few growers and handlers involved with these varieties of potatoes. As indicated earlier, such varieties are produced in very small quantities, and the market for these potatoes is different from the market for white fleshed varieties which are produced in significant quantities. Because these potatoes have little impact on the market for the white fleshed potatoes, the committee concluded that the administrative cost of regulating these varieties of potatoes exceeded the benefits derived therefrom and that shipments of these potatoes should be exempted from the handling and assessment regulations of the order.

List of Subjects in 7 CFR Part 946

Marketing agreements and orders, Potatoes, Washington State.

PART 946—IRISH POTATOES GROWN IN WASHINGTON

1. The authority citation for 7 CFR Part 946 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C 601–674.

2. Section 946.336 would be amended by revising the introductory text to read as follows:

§ 946.336 Handling regulation.

Beginning July 15, 1982, and continuing until amended or terminated, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c), and (g) of this section or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section, except that shipments of the non-white fleshed varieties of potatoes shall be exempt from both this handling regulation and the assessment requirements specified in § 946.41:

* * * * *

Dated: February 18, 1987.

William W. Doyle,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–4267 Filed 2–27–87; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 948

Irish Potatoes Grown in Colorado, Areas II and III; Amendment of the Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would: (1) Restructure the handler representation on the Area II Colorado Potato Administrative Committee; (2) change the fiscal year for Area II that begins July 1 and ends June 30 to begin September 1 and to end August 31; (3) change the term of office for Area III Colorado Potato Administrative Committee members that begins June 1 and ends May 31 to begin May 1 and to end April 30; and (4) reapportion the producer members of the Area III Colorado Potato Administrative Committee. The changes are intended to provide more equitable producer and handler representation on the committees in recognition of changes that have occurred in the relative importance of certain producers and handlers, and to improve program operations. The proposal was recommended unanimously by the respective committees.

DATE: Comments must be received by March 12, 1987.

ADDRESS: Comments should be sent to: Docket Clerk, Room 2085, South Building, U.S. Department of Agriculture, Washington, DC 20250. Three copies of all written material should be submitted, and they shall be available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under the criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action would not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (the Act, 7 U.S.C. 601–674), and rules promulgated thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 123 handlers of Area II Colorado potatoes and 19 handlers of Area III Colorado potatoes subject to regulation under the marketing order for Irish potatoes grown in Colorado. In addition, there are approximately 290 Area II producers and 112 Area III producers in the respective production areas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000. Handlers are considered small entities if gross annual revenues are less than $3,500,000. The majority of Area II and Area III Colorado potato producers and handlers can be classified as small entities.

The Administrator of AMS has considered the impact of this regulatory action on small entities. The regulatory action in this instance is a proposed rule that would: (1) Restructure the handler representation on the Area II Colorado Potato Administrative Committee; (2) change the fiscal year for Area II that begins July 1 and ends June 30 to begin September 1 and to end August 31; (3) change the term of office for Area III

Colorado Potato Administrative Committee members that begins June 1 and ends May 31 to begin May 1 and to end April 30; and (4) reapportion the producer members of the Area III Colorado Potato Administrative Committee.

This proposal is being issued under the marketing agreement and Order No. 948 (7 CFR Part 948), both as amended, regulating the handling of Irish potatoes grown in Colorado. The agreement and order are effective under the Act. These actions were recommended unanimously by the Area II and Area III Colorado Potato Administrative Committees. The committees work with the USDA in administering the marketing agreement and order program.

The handler representation change on the Area II committee is needed to provide bulk handlers adequate representation on the committee. Currently, the handler representation specified in § 948.50 is allocated between handlers representing all producers' cooperative marketing associations (currently allocated two members and alternate members), and handlers representing handlers other than producers' cooperative marketing associations (currently allocated three members and alternate members). Specific representation for bulk handlers is not provided.

The Area II committee recommended providing specific representation for this handler group because it has increased in importance on the basis of shipments in recent years relative to the other handlers in that area and because the interests of bulk handlers are different enough from other handlers to warrant specific representation. According to the committee, bulk handlers sell to different markets, market different packs, and share different problems than the other handlers in the industry. During the 1985–86 season, bulk handlers handled about 25 percent of shipments from Area II, producers' cooperative marketing associations handled about 15 percent of the shipments, and about 60 percent of the shipments were made by handlers other than producers' cooperative associations and bulk handlers.

In recognition of the relative importance of the bulk handler group in Area II and other special interests, the Area II committee recommended pursuant to § 948.53 that one handler member represent bulk handlers, one handler member represent all producers' cooperative marketing associations, and three handlers represent handlers other than cooperative marketing associations and bulk handlers. The effect of the recommendation and this proposal is to take one handler position away from the cooperative marketing associations and give it to bulk handlers. This is equitable on the basis of the relative importance of each group in terms of shipments.

Pursuant to § 948.103, since 1970, the Area II fiscal period has been July 1 through June 30 (7 CFR 948.103; 35 FR 13281; August 20, 1970). Since that time, however, improved storage has extended the marketing season well into the summer months (through August 31). The committee believes that a September 1–August 31 fiscal period which conforms to the actual shipping season would improve program administration and financial operations. The fiscal period change was recommended on this basis. In recognition of this proposal, the 1986–87 fiscal period is proposed to be extended two months to August 31, 1987.

The term of office specified in § 948.104 for the Area III Colorado Potato Administrative Committee members currently begins June 1 and ends May 31. The members serve two-year terms, and a portion of the membership is selected each year. The annual committee meetings have historically been held in June, and the June 1–May 31 two-year term of office enabled new committee members to participate fully at such meetings. However, the committee has recently determined that holding the annual meeting in May would help avoid conflicts with producer planting schedules and give the industry more time to plan its operations in light of the committee's recommendations for the new season.

In connection with the committee's desire to hold earlier organizational meetings but still allow the new members selected each year to participate at those meetings, the committee recommended that the term of office of its members begin May 1 rather than June 1. Under the proposal, the term of office of current committee members now scheduled to end on the last day of May in 1987 or 1988 will automatically expire on the last day of April of those years. The date for submitting nominees will be adjusted pursuant to § 948.56 by one month to give the Secretary sufficient time to complete the selection process before the term of office begins.

Currently, five producers and four handlers comprise the Area III administrative committee. Pursuant to § 948.50(c), the five producers are selected so three producers are from Weld County, one producer is from Morgan County, and one producer is from the remaining counties of Area III. In recent years, the number of growers and the amount of production has decreased significantly outside of Morgan and Weld Counties. There are about 112 producers in Area III, and only four of those are outside of Morgan and Weld Counties. Moreover, close to 70 percent of the producers from that area are located in Weld County and they normally produce about 60 percent of the tonnage. Hence, to foster more equitable producer representation on the Area III Potato Administrative Committee, the committee recommended continuing the three member representation for Weld County and allocating the remaining two members to producers from the remaining counties of Area III, rather than splitting them between Morgan County and the remaining counties comprising Area III.

The final proposal would formally establish the current apportionment recognized by the Area III potato industry for more than 15 years. Since 1970, the four handler members on the Area III administrative committee have been apportioned and allocated equally between Weld County and all of the remaining counties in Area III. However, this apportionment was never formally acted upon by the Department pursuant to § 948.53. According to the committee, this apportionment is still equitable based on the quantity of potatoes shipped by handlers located in Weld County and handlers located in the remaining counties in Area III. Approximately 60 percent of the potatoes shipped from Area III over the last few seasons under the marketing agreement and order program have been made by handlers from Weld County.

The nomination meeting for the Area III Colorado Potato Administrative Committee is scheduled for February 12, 1987. Therefore, a 10-day comment period is determined to be adequate so that the proposed rule, if adopted, may be implemented in time for the nominations to be conducted.

List of Subjects in 7 CFR Part 948

Marketing agreements and orders, Potatoes, Colorado.

PART 948—[AMENDED]

1. The authority citation for 7 CFR Part 948 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 948.150 would be added to read as follows:

§ 948.150 Reestablishment of committee membership.

Pursuant to § 948.53, membership on each area committee shall be reestablished as follows:

(a) *Area No. 2 (San Luis Valley):* Seven producers and five handlers selected as follows:

Three (3) producers from Rio Grande County;

One (1) producer from Saguache County;

One (1) producer from Conejos County;

One (1) producer from Alamosa County;

One (1) producer from all other counties in Area No. 2;

One (1) handler representing all producers' cooperative marketing associations in Area No. 2;

One (1) handler representing bulk handlers in Area No. 2;

Three (3) handlers representing handlers in Area No. 2 other than producers' cooperative marketing associations and bulk handlers.

(b) *Area No. 3:* Five producers and four handlers selected as follows:

Three (3) producers from Weld County;

Two (2) producers from all other counties in Area No. 3;

Two (2) handlers from Weld County;

Two (2) handlers from all other counties in Area No. 3.

3. The provisions of § 948.103 would be revised to read as follows:

§ 948.103 Fiscal period.

Pursuant to § 948.10, the fiscal periods for each area shall be as follows:

(a) Area No. 1 and Area No. 3 shall begin July 1 and end June 30, of the following year, both dates inclusive;

(b) Area No. 2 shall begin September 1 and end August 31, of the following year, both dates inclusive. The 1986–87 fiscal period which began July 1, 1986, will be extended two months to August 31, 1987.

4. The provisions of § 948.104 would be revised to read as follows:

§ 948.104 Term of office.

(a) Pursuant to § 948.55, the two-year term of office for area committee members and alternates shall be as follows:

(1) Area No. 1 and Area No. 2 shall begin June 1 and end May 31 of the second year following;

(2) Area No. 3 shall begin May 1 and end April 30 of the second year following.

(b) The one-year term of office for Colorado Potato Committee members shall begin as of June 1 of each year.

Dated: February 18, 1987.

William J. Doyle,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–4321 Filed 2–27–87; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–CE–05–AD]

Airworthiness Directives; Bellanca Models 17–30, 17–30A, 17–31, 17–31A, 17–31TC, and 17–31ATC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to all Bellanca Models 17–30, 17–30A, 17–31, 17–31A, 17–31TC, and 17–31ATC airplanes, which would require repetitive inspections of the fuel filler caps and fuel filler well (scupper) drains for all models. Additionally, for airplanes manufactured between late 1966 and early 1973, the AD would require that revisions be incorporated in the Airplane Flight Manuals (AFM), and that revised fuel system placards, referenced in the AFMs, be installed in the airplanes. A high percentage of the accidents and incidents in which these airplanes were involved were related to loss of engine power, with fuel contamination or fuel mismanagement being the cause in many instances. The fuel filler cap and fuel filler well drain inspections will reduce the possibility of fuel contamination. The AFM revisions, which contain improved descriptions of the fuel system and related operating procedures, will provide pilots with specific operating information and improved emergency procedures to prevent inflight power loss due to fuel contamination or starvation.

EFFECTIVE DATE: Comments must be received on or before April 20, 1987.

ADDRESSES: Bellanca Service Letter No. B–105, dated February 2, 1987, and the Airplane Flight Manual Revisions (Model 17–30/Rev. 15, dated February 2, 1987; Model 17–30A/Rev. 6, dated February 2, 1987; Model 17–31/Rev. 2, dated February 2, 1987; Model 17–31A/Rev. 8, dated February 2, 1987; Model 17–31TC/Rev. 2, dated February 2, 1987; Model 17–31ATC/Rev. 8, dated February 2, 1987) applicable to this AD may be obtained from Bellanca, Inc., P.O. Box 964, Alexandria, Minnesota 56308; or may be examined in the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 87–CE–05–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Ty Krolicki, FAA, Chicago Aircraft Certification Office, ACE–140C, 2300 East Devon Avenue, Room 232, Des Plaines, Illinois 60018; Telephone (312) 694–7032.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 87–CE–05–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

According to National Transportation Safety Board data for the period from 1967 through 1985, Bellanca 17–30 and 17–31 series airplanes were involved in 127 accidents in which there was a loss of engine power. This represents about 38 percent of the total accidents which these model airplanes were involved in during the period. During the same

timespan, however, loss of engine power accounted for only 21 percent of the total number of accidents in which airplanes of several other comparable manufacturers were involved. In addition, the Federal Aviation Administration (FAA) data base for 1980 through 1985 contains 22 incidents in which these airplanes experienced loss of engine power. Fuel system contamination and fuel mismanagement are two identified or probable causal factors in many of these accidents and incidents. To protect against fuel system contamination due to water entering the fuel tanks, Bellanca has developed Service Letter No. B–105, dated February 2, 1987, which contains specific procedures for inspecting the fuel caps and the fuel filler well (scupper) drains. Inspection of the fuel caps will help provide a good seal, thus preventing moisture from entering the tanks. A test is also required for the thermos-type expansion fuel caps to assure moisture will not enter the cap through the locking tab mechanism. In addition, procedures are included to ensure that the fuel filler well drain is not plugged. A plugged drain could permit water to accumulate in the fuel filler well and possibly reach a level where it would flow into the tank inlet if the filler cap seal was defective or loose-fitting. The FAA believes that mandatory compliance with the procedures of the service letter will reduce the possibility of water entering the fuel tanks.

Fuel starvation of the engine due to a fuel tank being dry despite the presence of ample fuel in another tank has been a recurring problem. The design of the fuel system on late 1966 through early 1973 versions of these airplanes is complex, requiring improved instructions to prevent fuel system mismanagement. This design includes the use of two fuel selector valves (in airplanes with wing auxiliary fuel tanks), a fuel quantity gauging system that does not provide a dedicated gauge for each tank, and the characteristic that the main tank fuel quantity gauge reads empty (regardless of the actual amount of fuel present in the tanks) when the main fuel selector valve is set to the "AUX" tank position. The problem is compounded by the fact that the fuel system description and operating procedures provided in the existing airplane flight manuals for these older airplanes are generally inadequate. To improve the situation, Bellanca has developed comprehensive revisions to the flight manuals for these older airplanes. These revisions incorporate an improved description of the operation of the fuel system, specific operating information regarding management of available fuel resources, a recommendation that fuel tanks not be intentionally run dry, and procedures for restarting the engine in flight. In addition, Bellanca has developed improved placards, referenced in the revised flight manuals, to highlight certain peculiarities of the fuel system in a more clear manner. The FAA believes that these changes will heighten pilot awareness of the importance of proper fuel management and increase overall understanding of the fuel system, thereby reducing accidents and incidents caused by fuel mismanagement.

Since the condition described is likely to exist or develop in other Bellanca airplanes of the same type design, the proposed AD would require (1) periodic inspections of the fuel filler caps and fuel filler well (scupper) drains in accordance with Bellanca Service Letter No. B–105, dated February 2, 1987; and

(2) for airplanes manufactured between late 1966 and early 1973, a revision to the airplane flight manuals to incorporate an improved description of the fuel system (and installation of the associated revised fuel system placards) and related operating procedures.

The FAA has determined there are approximately 1,300 airplanes affected by the inspections specified in the proposed AD at a negligible cost per airplane, and 661 airplanes affected by the flight manual revision and placard installation specified in the AD, at a cost of approximately $10 per airplane. The total cost is estimated to be less than $7,000 to the private sector. The cost is so small that compliance with the proposal will not have a significant financial impact on any small entities owning affected airplanes.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39–13 [Amended]

2. By adding the following new AD:

Bellanca: Applies to Models 17–30, 17–30A, 17–31, 17–31A, 17–31TC, and 17–31ATC (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished. To preclude engine power loss due to either the accumulation of water or other contaminants in the fuel system or due to mismanagement of available fuel resources caused by lack of pilot familiarity with the airplane fuel system design and operating procedures, accomplish the following:

(a) For all airplanes, within the next 30 days after the effective date of this AD or at the next annual inspection, whichever occurs later, and thereafter at each annual inspection, inspect the fuel filler caps and fuel filler well (scupper) drains in accordance with the instructions contained in Section II of Bellanca Service Letter No. B–105, dated February 2, 1987.

(b) For Bellanca Models and Serials identified in Table 1., within the next 30 days after the effective date of this AD, accomplish the following:

(1) Install the appropriate AFM revision, as specified in Table 1.

(2) Install permanent placards which state the following at the specified airplane locations:

(i) On the instrument panel adjacent to the auxiliary fuel pump switch: "USE TO RESTORE FUEL PRESSURE AND RELEASE TO PREVENT ENGINE FLOODING."

(ii) On the instrument panel adjacent to the fuel quantity gauges: "FUEL GAUGES READ QUANTITY IN TANK SELECTED. MAIN FUEL TANK GAUGE INOPERATIVE WHEN AUXILIARY TANK SELECTED. FUEL REMAINING IN SELECTED TANK CANNOT BE USED SAFELY IN FLIGHT WHEN GAUGE READS ZERO."

(iii) On the console adjacent to the fuel selector valve (on airplanes with a 58 gallon capacity fuel system):

"LEFT TANK: 15.5 GALLONS
RIGHT TANK: 15.5 GALLONS
AUXILIARY TANK: 20 GALLONS
USE AUX. TANK IN LEVEL FLIGHT ONLY."

(3) Placards specified in (b)(2)(i), (b)(2)(ii), and (b)(2)(iii) may be fabricated and installed using letters with minimum 1/10 inch height.

Note.—The AFM revisions specified above (and associated placards) are available at a nominal cost from Bellanca, Inc., P.O. Box

964, Alexandria, Minnesota 56308; Telephone (612) 762–1501. The placards are revised versions of existing placards. The existing placards may either be removed and discarded or overlaid by the corresponding revised placard. The placard specified in paragraph (2)(iii) deletes information which was contained in the placard being replaced. This information, however, is presented more clearly in the placard of paragraph (2)(ii) which is a new placard for the airplanes to which paragraph (2)(iii) applies.

(c) The requirements of paragraph (b) of this AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations (FAR) on any airplane owned or operated by him, provided the airplanes are not used in air taxi operations. The person accomplishing these actions must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An equivalent means of compliance with this AD may be used if approved by the Manager, Chicago Aircraft Certification Office, FAA, 2300 East Devon Ave., Des Plaines, Illinois 60018; Telephone (312) 694–7357.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Bellanca, Inc., P.O. Box 964, Alexandria, Minnesota 56308; or may examine the document(s) referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 17, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

TABLE 1

Model	Serial Nos. (may be prefixed with year of manufacture)	AFM Revision to be installed
17-30	30001—30262	Rev. 15, dtd. 2/2/87.
-30A	30263—30514 (except 30498).	Rev. 6, dtd. 2/2/87.
-31	32-1—32-14	Rev. 2, dtd. 2/2/87.
-31A	32-15—32-102	Rev. 8, dtd. 2/2/87.
-31TC	31001—31003	Rev. 2, dtd. 2/2/87.
-31ATC	31004—31046	Rev. 8, dtd. 2/2/87.

[FR Doc. 87–4230 Filed 2–27–87; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 852 3066]

Walgreen Co.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Deerfield, Ill.-based retail drugstore chain from making unsubstantiated advertising claims for "Advil" pain reliever or any other over-the-counter analgesic drug product.

DATE: Comments will be received until May 1, 1987.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: FTC/A–4002, Donna Siegel Moffa, Washington, DC 20580. (202) 326–3084.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Advertising, Over-the-counter drugs, Trade practices.

Before Federal Trade Commission

[File No. 852 3066]

In the matter of Walgreen Co., a corporation; *agreement containing consent order to cease and desist.*

The Federal Trade Commission having initiated an investigation of certain acts and practices of Walgreen Co., a corporation, and it now appearing that Walgreen Co., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Walgreen Co., by its duly authorized officers, and its attorney and counsel for the Federal Trade Commission that:

1. Proposed respondent Walgreen Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 200 Wilmot Road, Deerfield, Illinois 60015.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint here attached.

6. The agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order

to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondent Walgreen Co., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of "Advil," "Nuprin" or any other over-the-counter analgesic drug product, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing in any manner, directly or by implication:

A. That any such product can be substituted by consumers, in over-the-counter dose levels, for a prescription form of the product, because when so substituted such product provides all of the same therapeutic benefits to consumers as the FDA-approved label indications for the prescription form of the product, unless at the time of making the representation respondent possesses and relies upon a reasonable basis substantiating such representation. Except as otherwise permitted by the provisions of paragraph IV hereinbelow, such reasonable basis shall consist of at least two adequate and well-controlled double-blinded clinical studies which conform to acceptable designs and protocols and are conducted by different persons independently of each other. Such persons shall be qualified by training and experience to conduct such studies.

B. That any such product provides anti-inflammatory benefits for arthritis or other conditions unless at the time of making the representation respondent possesses and relies upon a reasonable basis substantiating such representation. Except as otherwise permitted by the provisions of paragraph IV hereinbelow, such reasonable basis shall consist of at least two adequate and well-controlled double-blinded clinical studies which conform to acceptable designs and protocols and are conducted by different persons independently of each other. Such persons shall be qualified by training and experience to conduct such studies.

II

It is further ordered that respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of "Advil," "Nuprin," any other over-the-counter analgesic drug product containing ibuprofen, or any other analgesic drug product existing simultaneously in over-the-counter and prescription forms, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing in any manner, directly or by implication, that any such product is efficacious for any purpose unless at the time of making the representation respondent possesses and relies upon a reasonable basis substantiating such representation. Except as otherwise permitted by the provisions of paragraph IV hereinbelow, such reasonable basis shall consist of at least two adequate and well-controlled double-blinded clinical studies which conform to acceptable designs and protocols and are conducted by different persons in dependently of each other. Such persons shall be qualified by training and experience to conduct such studies.

III

It is further ordered that respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of "Advil," "Nuprin" or any other over-the-counter analgesic drug product containing ibuprofen, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing in any manner, directly or by implication, any performance characteristic of any such product (other than those covered by paragraphs I and II hereinabove) unless at the time of making the representation respondent possesses and relies upon a reasonable basis consisting of competent and reliable scientific evidence which substantiates such representation. Except as otherwise permitted by the provisions of paragraph IV hereinbelow, evidence shall be considered "competent and reliable" only if it consists of tests, experiments, analyses, research, studies, or other evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results.

IV

The following provisions apply to paragraphs I through III of this Order:

A. The term "analgesic drug product" means an oral dosage form of drug as to which the label indications for over-the-counter use are limited to the relief or reduction of pain, inflammation and/or fever.

B. If FDA promulgates any final standard or any FDA Advisory Review Panel has in effect findings and conclusions establishing that such representation is true, such final standard or findings and conclusions (as long as they remain in effect) shall also constitute a reasonable basis for such representation.

V

It is further ordered that respondent, its successors and assigns, for at least three (3) years after the date of the last dissemination of the representation, shall maintain and upon request make available to the staff of the Commission for inspection and copying:

1. All materials possessed and relied upon to substantiate any claim or representation covered by this Order.

2. All test reports, studies, surveys, or demonstrations in their possession or control or of which they have knowledge that contradict, qualify or call into question any representation covered by this Order.

VI

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

VII

It is further ordered that respondent shall forthwith distribute a copy of this Order to each of its operating divisions.

VIII

It is further ordered that respondent shall, within sixty (60) days after the date of service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted subject to final approval an agreement to a proposed consent order from Walgreen Co. (Walgreen).

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the proposed order contained in the agreement.

This matter concerns advertisements for "Advil," a new over-the-counter (OTC) analgesic drug product containing nonprescription strength ibuprofen. Ibuprofen was formerly available only by prescription. Walgreen is a large retail drug store chain that created and disseminated the challenged advertisements shortly after OTC ibuprofen was introduced into the marketplace.

The Commission's complaint in this matter charges Walgreen with disseminating "Advil" advertisements that deceptively represented that "Advil," in OTC dose levels, would provide all the same therapeutic benefits as prescription ibuprofen when, in fact, Walgreen did not have a reasonable basis for that claim. Similarly, the complaint charges that Walgreen lacked a reasonable basis for claiming that "Advil" provides an anti-inflammatory benefit to consumers.

The consent order contains provisions designed to remedy the advertising violations charged and to prevent Walgreen from engaging in similar acts and practices in the future. In order to avoid confusion to consumers, and to fully ensure that Walgreen will not engage in similar acts and practices in the future, the order specifically references "Nuprin," the only other OTC ibuprofen product currently on the market.

Paragraph I of the consent order prohibits Walgreen from representing that "Advil," "Nuprin," or any other OTC internal analgesic can be substituted for a prescription form of the product (because when so substituted it provides all the same therapeutic benefits as the prescription form of the product) unless Walgreen possesses and relies upon a reasonable basis consisting of two adequate and well-controlled double-blinded clinical studies (two clinicals). Similarly, Paragraph I requires Walgreen to possess and rely upon two clinicals to support any representation that "Advil," "Nuprin," or any other OTC internal analgesic provides anti-inflammatory benefits for arthritis or any other condition.

Paragraph II of the consent order requires Walgreen to possess and rely upon two clinicals to support any efficacy claim for "Advil," "Nuprin," any other OTC ibuprofen analgesic, or any other OTC internal analgesic existing simultaneously in prescription and OTC form. Performance characteristic claims for "Advil," "Nuprin," or any other OTC ibuprofen analgesic must, under Paragraph III of the consent order, be supported by a reasonable basis consisting of competent and reliable scientific evidence.

Paragraph IV of the consent order contains definitions and provisos applicable to Paragraphs I, II and III. Paragraph IV also provides that Walgreen may rely on, as substantiation for a covered claim, any final standard promulgated by the FDA or any FDA Advisory Review Panel findings and conclusions (as long as they remain in effect).

Paragraphs V, VI, VII and VIII of the consent order are standard order provisions requiring Walgreen to retain substantiation, notify the Commission of changes in its corporate status or identity, distribute the order to its operating divisions and report to the Commission on its compliance with terms of the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

Dissenting Statement of Chairman Oliver in Walgreen Co.

February 24, 1987.

I am skeptical that the Walgreen advertisements at issue here materially injured consumers. At worst, Walgreen erred in its initial Advil advertisements by suggesting implicitly that recommended OTC doses of ibuprofin (Advil) provide the same anti-inflammatory benefits for arthritis sufferers as prescription doses of ibuprofin (Motrin). In fact, Advil is specifically not recommended for long term use in dosage levels sufficient to provide adequate anti-inflammatory relief for arthritis sufferers.

Walgreen's representations might have caused consumer injury by inducing consumers to take Advil to relieve arthritis inflammation. Anti-inflammatory relief, unlike pain relief, is a credence good. Consumers cannot tell if a product provides inadequate anti-inflammatory relief unless and until they suffer permanent joint damage from inadequate control of arthritis inflammation over a long period of time. Thus, I might have voted for a narrow order proscribing such claims, although the issue is a close one because the evidence before the Commission on consumer injury is weak.

I find it unlikely that Walgreen's Advil advertisements caused substantial injury. First, they were "tombstone" ads, principally designed not to inform consumers of Advil's product characteristics, but rather to inform consumers that certain Walgreen stores carried Advil. Consumers probably would have been informed of Advil's performance characteristics from the detailed and carefully qualified ads promulgated by the makers of Advil.

Second, potential injury here is possible primarily as a long term result of inadequate control of arthritis inflammation. Advil ran the advertisements in question for only a very short time (between May and July 1984). Many, if not most, consumers would know they need an anti-inflammatory agent for arthritis only if they were under the care of a physician.

The likelihood of their being under a physician's care attenuates the potential injury, as consumers could either seek ibuprofin dosage advice, or compare Advil's recommended dosages with their prescribed ibuprofin doses.

Even if the merits of the underlying claims were important in 1984, it is unlikely that this order in 1987 will serve any purpose at all. Moreover, two characteristics of the order before the Commission make it unacceptable. First, the order is too broad. The complaint should have focused only on Walgreen's arthritis anti-inflammation claims for Advil. Walgreen's challenged claims that Advil is "a prescription pain reliever without a prescription" are not, to my mind, deceptive. In fact, Advil contains the same active ingredient (ibuprofin) as the prescription product Motrin. Moreover, even if consumers perceived Walgreen's representations to imply that Advil contained the same amount of ibuprofin as Motrin, injury is likely to be small. Pain relief is much more an experience good than some forms of arthritis inflammation relief. If the OTC product did not provide adequate pain relief, consumers could seek advice from a physician, or experiment with other painrelievers.

Second, I find troublesome the order's substantiation requirement of two clinical tests for retailer claims made for products offered on both a prescription and an OTC basis. The cost to retailers like Walgreen of checking on the substantiation of reputable manufacturers as well as the risk of liability for repeating reputable manufacturers' unsubstantiated claims would be apt to chill useful advertising and would be passed along to consumers in higher prices. Moreover, I am concerned that broad application of the Walgreen injunction to all drug retailers might competitively disadvantage small independent drug retailers who do not maintain a staff sufficient to evaluate manufacturer product claims. I believe that a more sensible fencing in requirement would impose a substantiation requirement only when ,' the retailer's claims differ from manufacturer's claims.

Accordingly, although the question is a close one I might have supported a narrow order addressing only Walgreen's anti-inflammatory claims. However, for the above reasons, I must vote against the version of the Walgreen order now before us.

[FR Doc. 87-4287 Filed 2-27-87; 8:45 am]

BILLING CODE 6750-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-3163-2]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Extension of the public comment period.

SUMMARY: On January 2, 1987 (52 FR 91), the U.S. Environmental Protection Agency (USEPA) proposed to take action on the State of Ohio's draft statewide total suspended particulate (TSP) plan.

At the time of the proposed rulemaking, a 30-day comment period was provided. The Ohio Environmental Protection Agency and LTV Steel Company requested an extension of the public comment period. Based upon these requests, USEPA is extending the public comment period 60 additional days to April 3, 1987.

DATE: Comments must be postmarked on or before April 3, 1987. If possible please send an original and three copies.

ADDRESSES: Comments should be submitted to: Gary V. Gulezian, Regulatory Analysis Section (5AR-26), Air and Radiation Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

Authority: 42 U.S.C. 7401-7642.

Dated: February 13, 1987.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 87-4275 Filed 2-27-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL-3163-3]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Extension of the public comment period.

SUMMARY: On December 2, 1986 (51 FR 43387), the U.S. Environmental Protection Agency (USEPA) proposed to disapprove a revision to the Ohio State Implementation Plan (SIP) for ozone. The requested revision consists of a permanent relaxation of the volatile organic compound (VOC) emission limits previously approved by USEPA for the interior coating applied to steel drums at Van Leer Containers, Inc., Cuyahoga County, Ohio.

At the time of the proposed rulemaking, a 30-day comment period was approved. However, in response to a request from Van Leer Containers, Inc., for additional time to comment the public comment period is extended an additional 60 days to March 3, 1987.

DATE: Comments must be postmarked on or before March 3, 1987. If possible please send an original and three copies.

ADDRESSES: Comments should be submitted to: Gary V. Gulezian, Chief, Regulatory Analysis Section (5AR-26), Air and Radiation Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. (312) 886-6088.

Authority: 42 U.S.C. 7401-7462.

Dated: February 11, 1987.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 87-4276 Filed 2-27-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[CC Docket No. 86-496; FCC 86-572]

Satellite Communication Services

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission has proposed revisions and amendments to its rules governing satellite communications. These rules are necessitated by the Commission's earlier decision to reduce orbital spacing between space stations, 48 FR 40233 (September 6, 1983), and the related increase in interference. They are also the result of recommendations by the Joint Industry/Government Advisory Committee convened to study the problems created by reduced spacing. 50 FR 2671 (January 18, 1985). Some rule proposals include technical design standards for space stations and

verification tests for earth stations to ensure compliance with antenna performance standards. Proposals also codify and revise application procedures for satellite licenses and include a new application form for earth station licenses. Procedures for intersystem coordination and for basic operating rules are proposed. The rules also include more stringent regulation of video transmissions and transportable antennas. The adoption of the proposed rules will promote interference free satellite operations as well as facilitate processing of license applications. All operators of satellite facilities may be affected by these rules.

DATES: Comments on the proposed rules are due on or before April 20, 1987 with reply comments due on or before June 15, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rosalee Gorman, Fern Jarmulnek or Roger Herbstritt, Satellite Radio Branch, Common Carrier Bureau (202) 634–1624.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, CC Docket No. 86–496, adopted December 23, 1986 and released February 12, 1987.

The full text of this Commission decision is available for inspection and copying during the normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

The collection of information requirements contained in these proposed rules has been submitted to OMB for review under section 3504(h) of the Paperwork Reducton Act. Persons wishing to comment on this collection of information requirements should direct their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for Federal Communications Commission.

Summary of Notice of Proposed Rulemaking

The Commission has proposed revising Part 25 of its rules. This revision is intended to accomplish several objectives. The proposed rules would establish regulations to reduce intersatellite interference, would institute intersystem coordination procedures to resolve interference problems, would impose space station technical design standards and earth station verification tests, would more stringently regulate video transmissions and transportable antennas and would revise and codify application processing procedures for satellite communications services. The Notice also proposes the adoption of a new earth station application form.

Several factors have necessitated this rulemaking. In 1983, the Commission reduced orbital spacings between domestic fixed-satellites to two degrees. 48 FR 40233 (September 6, 1983). Because of the greater potential for interference caused by this reduction, a joint industry-government advisory committee was established to make recommendations for regulations to alleviate interference problems. 50 FR 2671 (January 18, 1985). Many of the Committee's recommendations were incorporated in the Commission's Notice.

Rules recommended by the Committee include technical design standards for space stations in the Fixed-Satellite Service. Also proposed is a verification procedure by which earth station licensees will certify that their antennas meet the Commission's antenna performance standards of 47 CFR 25.209. More stringent regulation of video transmissions and of transportable earth stations is also proposed.

In addition to the reduction in orbital spacing of space stations, the rapid growth and diversity of satellite communications has led to interference problems. In a Petition for Rulemaking filed earlier by Amerian Satellite Company, similar concerns were raised and recommendations were made. In response to these suggestions, the Commission has proposed intersystem coordination procedures and operating rules to assist in avoiding interference and in resolving any problems that occur during operations.

Finally, the Commission is proposing codification and revision of application requirements as well as the adoption of a new form for earth station license applications. Included in these proposals are the elimination of the construction permit requirement for most earth stations and elimination of the requirement that earth station applicants demonstrate financial qualifications. The rules would also establish a registration program in lieu of licensing for domestic receive-only earth stations.

This is a non-restricted notice and comment rulemaking proceeding. *See* § 1.1231 of the Commission's rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, this proceeding will have an impact on all entities including small entities who seek authorization under Part 25 of the Commission's rules to operate satellite facilities. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision.

Ordering Clauses

Accordingly, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 303, and section 553 of the Administrative Procedure Act, 5 U.S.C. 553, we hereby give Notice of our intent to adopt the rule revisions set forth at the end of this document.

The Petition for Rulemaking, RM–4206, filed by American Satellite Company is hereby granted in part as reflected in the Commission's complete Notice.

List of Subjects in 47 CFR Part 25

Satellite radio communications, Satellites.

William J. Tricarico,

Secretary.

[FR Doc. 87–3726 Filed 2–27–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–518, RM–5659]

Television Broadcasting Services; Yosemite Valley and Merced, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Pappas Telecasting Incorporated to delete UHF Television Channel 51 from Merced, California and to reassign that channel to Yosemite Valley, California as its first television assignment. The Commission proposes to assign Channel 41 to Yosemite Valley in lieu of Channel 51. This proposal accepts a showing that Yosemite Valley is community for allocation purposes.

DATES: Comments must be filed on or before April 13, 1987, and reply comments on or before April 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Richard Hildreth, Fletcher, Heald & Hildreth, 1225

Connecticut Avenue, NW., Suite 400, Washington, DC 20036 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission Notice of Proposed Rule Making, MM Docket No. 86–518 adopted December 23, 1986 and released February 19, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–4140 Filed 2–27–87; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Part 242

Federal Acquisition Regulation Supplement; Indirect Cost Rates

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for comments.

SUMMARY: The Department of Defense is considering changes to DoD Federal Acquisition Regulation Supplement (DFARS) Subpart 242.7 which: (a) Extend the auditor determination of final indirect cost rates procedure to all commercial contractor locations where DoD has the predominant interest and (b) assign the auditor the responsibility for determining billing rates for all contractor locations. The proposed changes are being promulgated in accordance with (a) Deputy Secretary of Defense decision of 17 October 1985 (51 FR 15356, April 23, 1986), which transitioned responsibility for determination of final indirect cost rates to DCAA, and (b) the Deputy Assistant Secretary of Defense for Procurement direction of 22 July 1986 to assign the determination of interim billing rates to DCAA.

DATE: Comments on the proposed rule should be submitted in writing to the DAR Council at the address shown below no later than May 1, 1987, to be considered in the formulation of the final rule. Please cite DAR Case 85–259 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, ODASD(P)/DARS, c/o OASD(A&L) (M&RS), Room 3C841, The Pentagon, Washington, DC 20301–3062.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

On 17 October 1985, the Deputy Secretary of Defense issued "Procedures for Implementation of Audit-Determined Indirect Cost Rates at all Contractor Locations." DCAA will assume authority for determining indirect cost rates immediately at each industrial contractor location beginning with the first contractor fiscal year for which an audit report has not been issued. DCAA will also assume the same resolution authority for all years addressed in audit reports issued during Calendar Year 1985 where discussions have not been initiated between the contracting officer and the contractor. Issues of audit determined years related to cost accounting standards or cost principle interpretations currently being negotiated by contracting officers will be held in abeyance by DCAA pending resolution of indirect cost years assigned to the contracting officer. On 22 July 1986, the Deputy Assistant Secretary of Defense directed that determination of interim billing rates be assigned to DCAA, in the belief that the agency establishing the final indirect expense rates should also be responsible for establishing the interim billing rates.

B. Regulatory Flexibility Act Information

The proposed changes to DFARS Subpart 242.7 do not appear to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because this coverage pertains only to large businesses. Small businesses are already audit determined. Therefore, the Regulatory Flexibility Act does not apply.

C. Paperwork Reduction Act Information

The proposed rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 242

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed that 48 CFR Part 242 be amended as follows:

PART 242—CONTRACT ADMINISTRATION

1. The authority citation for 48 CFR Part 242 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

2. Section 242.704 is added to read as follows:

242.704 Billing rates.

(a) The auditor is responsible for determining biling rates for those contractor entities listed at FAR 42.705–1(a)(1) through (6).

3. Section 242.705–1 ia amended by adding paragraph (a), and by redesignating the existing paragraph (a)(1) as paragraph (1), as follows:

242.705–1 Contracting officer determination procedure.

(a) Responsibility for determination of final indirect cost rates is being transitioned to DCAA. Contracting officer determination procedures will continue to apply at individual contractor locations until transitioned to DCAA responsibility.

* * * * *

4. Section 242.705–2 is amended by adding paragraphs (a), (b)(1), (b)(2)(i), and (b)(2)(ii); by revising paragraph (b)(2)(iii); by adding paragraph (b)(2)(iv), and by revising paragraph (b)(2)(v) to read as follows:

242.705-2 Auditor determination procedure.

(a) Auditor determination procedures will be used for commercial contractor locations where DoD has the predominant interest (on the basis of unliquidated dollar amount). Transition years for contractor locations will be published at a later date. This procedure, as it applies to DoD contractor locations meeting the FAR criteria for contracting officer determination will be reevaluated at a subsequent date.

(b)(1) For multidivisional contractors, the proposal for each segment shall be submitted to the auditor responsible for conducting audits of that division and the divisional ACO. The cognizant auditor shall forward copies of the proposal to the corporate ACO and auditor. The contractor's proposal must contain an executed Certificate of Overhead Costs.

(b)(2)(i) Upon completion of the audit, the auditor will issue to the contractor a written notification setting forth audit exceptions to the contractor's proposal. The notification will state that the contractor has 90 days to provide its agreement or rebuttal comments. A copy of the notification will be furnished to the cognizant ACO. The auditor may grant the contractor one 30-day extension upon receipt of a written request from the contractor. Upon receipt of the contractor's response to the written notification of audit exceptions, the auditor will evaluate the response and issue the audit report required in FAR 42.705-2(b)(2)(iv) to the cognizant ACO within 60 days. If the contractor fails to respond to the notification by the required date (initial or extended), the auditor will issue the audit report. Regardless of agreement or disagreement, the audit report will cover, as a minimum:

(A) The contractor's indirect cost rate proposal;

(B) The audit findings;

(C) Reconciliation of all costs questioned, with identification of all individual elements of cost and amounts allowed or disallowed in the final settlement if agreement was reached, or recommended for disallowance if agreement was not reached;

(D) Disposition of period costing or allocability issues; and

(E) Identification of cost or pricing date submitted subsequent to the proposal and relied upon in reaching a settlement.

(ii) See paragraph (b)(2)(iii) of this section.

(iii) If the audit report details that agreement has been reached, the auditor will obtain from the contractor the Certificate of Current Cost or Pricing Date required in FAR 42.705-2(b)(2)(ii) and prepare an indirect cost rate agreement in accordance with FAR 42.705-2(b)(2)(iii). The agreement shall be signed by the contractor and the designated audit official.

(iv) See paragraph (b)(2)(i) of this section.

(v) If the audit report details that agreement with the contractor cannot be reached, the auditor will also issue DCAA Form 1 detailing the items of exception. Upon receipt of a DCAA Form 1, the contractor can submit a request, in writing, to the cognizant ACO to reconsider the auditor's determination and /or file a claim under the Disputes Clause. Such request or claim shall be submitted within 60 days. In considering the contractor's request, the ACO will not resolve any questioned cost without obtaining adequate documentation and the opinion of the auditor. To the maximum extent practicable, the auditor should be present at any negotiation or meeting between the ACO and contractor regarding the questioned costs. If agreement between the parties is reached, the ACO will obtain the Certificate of Current Cost or Pricing Data, prepare the indirect cost rate agreement, and prepare a negotiation memorandum containing the elements set forth in FAR 42.705-1(b)(5)(iii). Failure of the parties to reach agreement wil be treated in accordance with FAR Subpart 33.2..

5. Section 242.706 is amended by revising paragraph (a), by removing paragraph (b)(1), and adding paragraph (b) to read as follows:

242.706 Distribution of Documents.

(a) When the auditor executes the overhead rate agreement (see 242.705-2(b)(2) (iii)), copies of the agreement will be furnished to the contractor, the cognizant CACO (if assigned), and the cognizant ACO. In addition, copies will be distributed to other Departments, and (upon specific request) any other interested Government agencies. Department may make further distribution to activities within their Departments and shall insert one copy in each contractor general file (see S2-101.2 and S2-102.4). When the ACO executes the overhead rate agreement (see 242.705-2(b)(2)(v)), distribution is the same except that a copy will also be provided to the cognizant auditor.

(b) The audit report issued to the cognizant ACO pursuant to 242.705-2(b)(2)(i) will also be furnished to the cognizant CACO (if assigned). If the ACO prepares a negotiation memorandum pursuant to 242.705-2(b)(2)(v), copies will furnished to the cognizant auditor and the cognizant CACO (if assigned). Upon specific request, a copy of the auditor's report and/or the contracting officier's negotiation memorandum will be furnished to other Departments or Government agencies.

[FR DOC. 87-4031 Filed 2-27-87; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-149E, Notice No. 87-1]

Exceptions for Specified Quantities of Radioactive Materials

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Research and Special Programs Administration (RSPA) proposes to renew for two years the exceptions (statutory exemptions) for specified quantities of radioactive materials found in 49 CFR 173.4, 173.421-1 and 173.421-2. This action is necessary to update the exceptions in these sections which permit the transportation by passenger-carrying aircraft of certain quantities of radioactive material under the existing restrictions. Updating these exceptions will prevent the disruption of routine and ongoing shipments which have been made safely for 12 years under the existing exceptions. These materials do not present a significant hazard to passengers or crew on an aircraft.

DATE: Comments must be received on or before April 1, 1987.

ADDRESS: Address comments to Docket Branch (DHM-30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-5046. Public dockets may be reviewed between the hours of 8:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lee Jackson (202) 366–4488, Office of Hazardous Materials Transportation, RSPA, Washington, DC. 20590.

SUPPLEMENTARY INFORMATION: On May 2, 1985, RSPA published an emergency final rule under Docket HM–149D [50 FR 18667]. In this final rule, RSPA renewed for two years the exceptions (statutory exemptions) for specified quantities of radioactive materials found in 49 CFR 173.4, 173.421–1 and 173.421–2. This action was taken on an emergency basis because the existing exceptions were due to expire on May 3, 1985.

In accordance with section 107 of the Hazardous Materials Transportation Act (HMTA 49 U.S.C. 1806) governing exemptions, the exceptions provided in §§ 173.4, 173.421–1 and 173.421–2 are limited to two years unless reexamined and renewed. These exceptions expire on May 2, 1987. Historically, these exceptions have been issued and subsequently renewed under Docket HM–149. The legal background and regulatory history of these exceptions can be found in Docket HM–149C [46 FR 24184] published on April 30, 1981, and in preceding amendments dating back to April 17, 1975 [40 FR 17141].

In accordance with 49 CFR 106.13 and 49 U.S.C. 1806, RSPA is once again reexamining the provisions of the exceptions provided in §§ 173.4, 173.421–1 and 173.421–2 and proposes to extend the effective dates of these exceptions. Specifically, in §§ 173.4(b), 173.421–1(b)(2) and 173.421–2(d), the date May 2, 1987 would be amended to read "May 2, 1989". These amendments would permit the continued transportation of specified quantities of radioactive material by passenger-carrying aircraft.

Administrative Notices

Executive Order 12291

The RSPA has determined that the effect of this proposed rule will not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule. This is not a significant rule under DOT regulatory procedures [44 FR 11034] and requires neither a regulatory impact analysis, nor an environmental impact statement under the National Environmental Policy Act [49 U.S.C. 4321 et seq.]. A regulatory evaluation is available for review in the docket.

Impact of Small Entities

Based on limited information concerning the size and nature of the entities likely to be affected, I certify this rule will not, as promulgated, have a significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, Part 173 of Title 49 of the Code of Federal Regulations would be amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for Part 173 would be revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808, 1809; 49 CFR 1.53(e), 1.53, Appendix A to Part 1, 49 U.S.C. 1655, 1655(c).

§ 173.4 [Amended]

2. In paragraph (b) of § 173.4, the year "1987" would be changed to read "1989".

§ 173.421–1 [Amended]

3. In paragraph (b)(2) of § 173.421–1, the year "1987" would be changed to read "1989".

§ 173.421–2 [Amended]

4. In paragraph (d) of § 173.421–2, the year "1987" would be changed to read "1989".

Issued in Washington, DC, on February 25, 1987, under the authority delegated in 49 CFR Part 1, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 87–4323 Filed 2–27–87; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217, 222 and 227

[Docket No. 70227–7027]

Sea Turtle Conservation; Shrimp Trawl Requirements

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: The Secretary of Commerce proposes to adopt rules that require shrimp trawlers in the Gulf of Mexico and the Atlantic Ocean off the coast of the Southeastern United States to use qualified gear in specified locations and at specified times in order to reduce incidental captures of endangered and threatened species of sea turtles during fishing operations. These proposed rules were jointly recommended to the Secretary by representatives of affected shrimp fishermen and several environmental groups as offering the best prospect for reducing mortalities of sea turtles incidentally captured in shrimp trawls as near to zero as possible while avoiding, to the greatest extent possible, adverse economic effects for the shrimp fishing industry. The proposed rules contain criteria and procedures for testing and qualifying turtle excluder devices (TEDs), specify areas and seasons in which qualified TEDs must be used, extend current reporting requirements, extend present measures for resuscitation and release of captured sea turtles, continue present designation of critical habitat, and state the enforcement policy of the Secretary with respect to violations of the Endangered Species Act and these rules.

DATE: Written comments will be accepted until April 16, 1987.

ADDRESS: Comments on these proposed rules should be addressed to the Regional Director, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702. Comments on the collection-of-information requirement subject to the Paperwork Reduction Act should be directed to the Office of Information and Regulatory Affairs of OMB, Washington, DC 20503, Attention: Desk Officer for NOAA. Public hearings are scheduled during February and March 1987 at 13 locations (See **"SUPPLEMENTARY INFORMATION"**).

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz (813) 893–3366 or David Cottingham (202) 377–5181.

SUPPLEMENTARY INFORMATION: All five species of sea turtles that are found in marine waters adjacent to the Southeastern United States and the Gulf of Mexico are protected by the Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.*, (the Act). The Kemp's ridley, leatherback, hawksbill, and some populations of green sea turtles are listed as endangered species under the Act. The loggerhead and all other populations of green sea turtles are listed as threatened species.

The Act prohibits captures of endangered sea turtles within the United States, within the U.S. territorial sea, and on the high seas, except as authorized by the Secretary of Commerce or the Secretary of the Interior. The Secretary of Commerce has authority over sea turtles in the marine environment and the Secretary of the Interior has authority over sea turtles in the terrestrial environment. The Act authorizes the respective Secretaries, by regulation, to extend to threatended

species the protections provided to endangered species by statute.

Sea turtle deaths and beach strandings have been linked to a number of causes including climatic conditions, coastal development, marine debris, pollution, offshore energy activities, predation of eggs and hatchlings on nesting beaches, illegal captures for human consumption, and incidental captures by various forms of fishing gear. U.S. and foreign shrimp trawlers in the Gulf of Mexico and the Atlantic Ocean occasionally capture sea turtles. While some foreign fishermen now retain sea turtles for sale or personal consumption, U.S. fishermen are required to attempt to resuscitate and release unharmed any sea turtles they capture. Despite these efforts, many sea turtles drown.

Incidental capture and drowning of sea turtles by shrimp trawlers is a significant source of mortality for sea turtles. Research programs using on-board observers have documented the capture and drowning of turtles by shrimp trawlers in both the Gulf of Mexico and the Atlantic. Studies based on interviews of trawler captains and tag return data offer further evidence of such capture and drowning. It is impossible to quantify from such data precisely how many turtles are killed each year as a result of shrimp trawling, although the best scientific evidence available to the National Marine Fisheries Service (NMFS) indicates that the number is substantial.

Direct evidence of sea turtle mortality caused by shrimp trawlers is supplemented by data on sea turtle strandings. Since 1980, a volunteer "Sea Turtle Stranding and Salvage Network" has reported to NMFS turtles found stranded along the coasts of the Gulf and South Atlantic. More than 8,300 dead turtles, including nearly 600 of the critically endangered Kemp's ridleys, have been reported to NMFS by this stranding network. It is seldom possible to establish with certainty the cause of death of a stranded turtle; the fraction of the above total that represents turtles drowned by shrimp trawlers is unknown. However, in a number of geographic areas, peaks in turtle strandings correspond with peaks in shrimping effort. Thus, available data on stranded sea turtles tend to corroborate the conclusion that shrimp trawling is a significant source of sea turtle mortality, particularly since most drowned turtles are probably not reported by the stranding network because they do not wash ashore or may not wash ashore in areas accessible to network volunteers.

Until recently, significant sea turtle drownings were an unavoidable—and unintended—consequence of shrimp trawling. Now, however, gear research programs sponsored by NMFS, academic institutions, and the shrimp industry have developed four turtle excluder devices (TEDs) that can be installed in shrimp trawl nets to reduce mortalities. The four TEDs are expected to prevent capture, and consequent risk of drowning, of up to 97% of the sea turtles encountered in trawling for shrimp.

The four existing TEDs are modifications of devices that have been commonly used by shrimp trawlers at certain times of the year to exclude the undesirable bycatch of shrimp trawling—sharks, rays, horseshoe crabs, jellyfish and trash. Since 1981, when the turtle saving benefits of these devices became apparent, NMFS and the environmental community have encouraged shrimp fishermen to incorporate TEDs in their nets on a voluntary basis. A recent decline in strandings along parts of the Atlantic coast may be attributable to these voluntary efforts. Unfortunately, however, TED usage remains low. It is unlikely that sufficient numbers of shrimp fishermen will use TEDs voluntarily solely to reduce their unwanted bycatch. It is therefore necessary to adopt rules that mandate TED usage in areas of particular importance to sea turtles at certain times of the year.

To review the available scientific and commerical data and to develop recommendations for revised sea turtle protective measures, the Administrator of NOAA formed a working group consisting of representatives of the shrimp fishing industry and several environmental organizations to develop mutually agreeable solutions. The organizations that participated on the working group were the Center for Environmental Education, the Enviromental Defense Fund, the Fund for Animals, Greenpeace, Monitor International, the Bryan County (Georgia) Fisheries Cooperative, the Concerned Shrimpers of Louisiana, the Louisiana Shrimp Association, the Southeastern Fisheries Association, the South Carolina Shrimpers Association and the Texas Shrimp Association. With the assistance of a professional mediator, the working group met in New Orleans, LA, Jekyll Island, GA, Washington, DC, and Houston, TX, on the following dates, respectively: Oct. 16–18, Oct. 31 – Nov. 2, Nov. 10–13, and Dec. 1–4, 1986.

These proposed rules have been recommended by the working group as offering the best prospect for reducing sea turtle drownings in all waters under the jurisdiction of the United States as near to zero as possible while avoiding, to the greatest extent possible, adverse economic effects for the shrimp fishing industry. They do so by phasing in the required use of qualified TEDs in specific areas at specific times and by exempting trawls below specified sizes. The areas and times in which TEDs would be required to be used were determined by the working group, and are judged by NMFS, to represent the most critical areas and times for assuring the effective conservation of sea turtles. Those determinations are based on a substantial body of scientific and commercial information about sea turtle distribution and life history, incidence of stranded sea turtles, fishing effort, actual records of incidental captures of sea turtles, testing of TEDs by research institutions and commercial fishermen, and related information.

The proposed rules are intended to provide for an orderly transition to increased TED use, focusing initially on the areas and times most critical to sea turtle conservation and progressively expanding to other important areas and times as well. Initially, beginning July 15, 1987, TEDs will be required year-round in all waters off the Florida coast in the vicinity of Cape Canaveral. There are unusually high concentrations of sea turtles at Cape Canaveral, particularly during the winter months. Also beginning July 15, 1987, TEDs will be required in waters less than ten fathoms deep in offshore areas of southwestern Florida and the Florida Keys (year-round) and from Mobile Bay westward to the Mexican border (March through November). In addition, TEDs will be required in the inshore areas of Breton and Chandeleur Sounds of Louisiana (March through November). These relatively shallow waters are believed to be particularly important for endangered Kemp's ridleys during these times.

Beginning January 1, 1988, TEDs will be required in additional areas. These areas include all inshore and offshore waters of the Atlantic Ocean from just north of Cape Canaveral through South Carolina. TEDs will also be required in offshore waters off North Carolina south of 35° N. Latitude. For offshore waters in these areas, the period of required TED use extends from May 1 through August 31, the months when Atlantic waters are relatively warm and turtles most abundant. For inshore waters of South Carolina, Georgia and Florida, TEDs are required year round. There is no fathom limitation in the Atlantic because shrimp fishing there, unlike the Gulf, is conducted almost entirely in waters less

than 10 fathoms deep. The South Atlantic Fishery Management Council has estimated that requiring TEDs to be used in these areas at these times is likely to reduce turtle mortality from shrimp trawling in the Atlantic by more than 60 percent.

A further step in the progression of required TED use begins July 15, 1988, when shrimp trawlers fishing in all remaining inshore waters off southwestern Florida and from Mobile Bay westward to the Mexican border are required to use TEDs. In general, shrimp trawlers fishing in these waters are smaller than offshore trawlers and typically drag their nets for shorter times. That fact, and the likely limited earlier availability of sufficient TEDs for the many shrimp trawlers in these waters, warranted the postponement of required TED use in these inshore areas until mid-1988.

The final required step in the orderly progression envisaged by the proposed rules, effective January 1, 1989, extends the requirement of TED usage out to depths of 15 or fewer fathoms in all offshore Gulf waters in which TEDs have previously been required. Because a large majority of shrimping effort occurs within 15 fathoms of water in five shrimp statistical zones (zones 1 and 4 off southern Florida and zones 13 through 15 off Louisiana described at 50 CFR 658.2) all shrimp trawlers in these zones will be required to use TEDs regardless of water depth as of January 1, 1989.

This expansion of Gulf waters subject to required TED use is expected to provide significant additional protection to the critically endangered Kemp's ridley. In addition, TEDs may be required in 1989 during the months of April and September in Atlantic waters from north of Cape Canaveral to central North Carolina. TEDs will not be required in those additional months if NMFS determines that there has been at least 80 percent voluntary use of TEDs during each of those months in 1988; otherwise, such a requirement will be imposed.

The working group and NMFS expect that the above, phased introduction of TED requirements will lead to significant voluntary use of TEDs in areas and times in which they are not required. This is particularly desirable in the Gulf of Mexico, where virtually all adult and a substantial number of juvenile Kemp's ridleys occur.

The working group did not address, in detail, changes in the rules for 1990 and beyond. It is contemplated that the Secretary will address future TED requirements by convening a similar working group of environmental and industry representatives in the Fall of 1989 to assess the effectiveness of these rules in conserving sea turtles and related developments. As a result of that review, changes to these rules may be proposed. However, if another course of action is not deemed appropriate, then by July 15, 1990, the proposed rules require the Secretary of Commerce to determine whether trawlers representing 80 percent or more of the offshore shrimp fishing effort in the Gulf of Mexico are using TEDs. In the event the Secretary does not so determine, the rules will be amended to impose TED requirements in further Gulf waters or times to ensure that TEDs are used by trawlers representing at least 80 percent of Gulfwide shrimp fishing effort. The Secretary is not required to make this further extension of TED requirements if, by that date, Mexico has achieved comparable use of turtle excluding gear.

Standing alone these rules will not reduce high mortalities of captured sea turtles, particularly the most seriously endangered Kemp's ridleys, in waters under foreign jurisdiction. For this reason, the working group recommends that the Secretary of State, in consultation with the Secretaries of Commerce and the Interior, seek bilateral or multi-lateral sea turtle conservation agreements with Mexico and other wider-Caribbean nations. As a high priority matter, such nations should be encouraged to require TEDs to be used by their shrimp fishermen in equivalent situations. Both the Cartagena Convention and the Western Hemisphere Treaty for the Conservation of Nature were suggested. The working group also recommends that Congress strengthen Federal laws and relevant economic assistance programs to empower the Executive Branch to take appropriate action to encourage foreign nations to adopt equivalent sea turtle conservation measures.

Finally, the working group did not address the effects of shrimp trawling on sea turtles in the inshore areas of North Carolina. NMFS and a representative of the Center for Environmental Education met with North Carolina officials and local shrimp industry representatives on January 13, 1987. At the present time, the available data does not indicate that TEDs should be required in the inshore waters of North Carolina; however, research efforts will be increased during 1987. Public comments are specifically requested on this issue.

The following paragraphs highlight the particular features of these proposed rules.

Qualification of TEDs

Four TEDs have been demonstrated to achieve very high turtle exclusion rates. These are commonly called the NMFS TED, the Cameron TED, the Matagorda TED, and the Georgia TED. The proposed rules declare these TEDs to be qualified devices and contain a description of their essential design and construction and an illustration of each device. The rules further provide a procedure for testing additional devices and submitting them to NMFS for qualification. The standard for qualification is a 97% exclusion rate for the size of sea turtles encountered in the area where the device is intended to be used. All testing for turtle exclusion will be performed under NMFS supervision, normally off Cape Canaveral, Florida, using the scientific protocol published as an appendix to this rule.

Shrimp Efficiency Testing

A major concern with all TEDs has been possible loss of shrimp. Some TEDs may reduce shrimping efficiency, while others may enhance it, for example, by reducing unwanted bycatch. Refinements in TED design may improve shrimp yields or reduce unwanted bycatch. These rules contain a procedure for the Regional Director, NMFS, to allow public or private parties to conduct TED experiments. A research protocol is available from NMFS to aid in comparing shrimp retention or bycatch exclusion rates of the experimental gear to the rates of conventional gear or gear equipped with qualified TEDs.

Exemptions

Shrimp trawlers intending to fish for royal red shrimp (or for rock shrimp in the Atlantic Ocean) are exempt from the TED requirements provided that 90% of all shrimp offloaded from, or on board, the trawler are royal red shrimp (or rock shrimp from the Atlantic Ocean). The reason for this exemption is that turtles are rarely encountered in the very deep waters where these fisheries take place.

Shrimp trawlers using a single net that has a headrope length of 30 feet or less or using no more than two nets, each of which has a headrope length of 30 feet or less, that are pulled on opposite sides of the trawler and are not connected to each other are exempt from the TED requirements. Additionally, on all vessels, a single test net having a headrope length of 20 feet or less is also exempt from the TED requirement so long as the test net is independent of the primary net or nets. A test net is considered to be independent if it is pulled immediately in front of a primary

net or is not connected to a primary net in any way. The reasons for exempting small primary nets and test nets are that TEDs are not efficient, both in terms of turtle exclusion and shrimp retention, when used on small nets and that vessels using small nets tow for relatively short periods, thus reducing the risk that turtles might drown.

The working group considered, but has not formally recommended, that a further exemption be adopted to provide additional time to phase-in the TED requirements for the very large Louisiana shrimp fishing fleet. If the representative of the Concerned Shrimpers of Louisiana agrees to support these proposed rules, this exemption would delay the TED requirement until July 15, 1989, for each shrimp trawler that was licensed or registered in Louisiana prior to October 1, 1986, and that is using a single net with a headrope length 39 feet or less or two such nets that are pulled on opposite sides of the trawler and are not connected to each other.

Restricted Areas

Qualified TEDs must be carried and used by shrimp trawlers while fishing for white, brown, pink, or seabob shrimp (or for rock shrimp in the Gulf of Mexico) in the following areas during the dates indicated. This is a general description; more specific requirements are contained in the text of the proposed rules.

Region	TED areas, 1987-88	Dates
Atlantic Coast Offshore.	Ocean waters between 29° and 35° N. latitude.	Between May 1 and Aug. 31 each year to begin Jan. 1, 1988.
	Ocean waters between 28° and 29° N. latitude.	All year to begin July 15, 1987.
Atlantic Coast Inshore.	Bays, sounds, and tidal waters between 28° and 33° 52' N. latitude.	All year to begin Jan. 1, 1988.
Eastern Gulf of Mexico Offshore.	Gulf waters between 81° and 84° W. longitude and between 24° and 27° N. latitude less than 10 fathoms deep.	All year to begin July 15, 1987.
Eastern Gulf of Mexico Inshore.	Bays, sounds and tidal waters east of 83° W. longitude and south of 27° latitude.	All year to begin July 15, 1988.
Western Gulf of Mexico Offshore.	Gulf waters west of 88° W. longitude less than 10 fathoms deep.	Between Mar. 1 and Nov. 30 each year to begin July 15, 1987.
Western Gulf of Mexico Inshore.	Bays, sounds and tidal waters west of 88° W. longitude and Mobile Bay.	Between Mar. 1, Nov. 30, July 15, 1988.
Louisiana Inshore.	Breton and Chandeleur Sounds.	Between Mar. 1 and Nov. 30 to begin July 15, 1987.

Notes.—(1) All fathom contours have been converted to straight lines connecting specified points and depicted in the rules. TEDs are required landward of those straight lines on the dates specified.

(2) The July 15, 1987, starting dates may be delayed until not later than January 1, 1988, in particular areas or for particular trawlers, if the Secretary of Commerce determines that there are insufficient TEDs available for use in such areas or by such trawlers, taking into account the number, location, and capacity of TED manufacturers and other relevant information.

(3) If the Secretary of Commerce does not determine that TEDs were used in 80% or more of the Atlantic Ocean shrimping effort in April and September, 1988, TEDs will be required in those months in subsequent years.

(4) Effective January 1, 1989, the TED areas will be increased as follows:

(a) TEDs will be required in all waters of the Gulf of Mexico enclosed within the following coordinates:

(i) Between 24° and 25° N. latitude and between 81° and 82° W. longitude.

(ii) Between 26° and 27° N. latitude and east of 84° W. longitude.

(iii) Between 89° and 92° W. longitude and north of 28° N. latitude.

(b) In all areas not covered in (4)(a)(i–iii), the 10 fathom contour that applied earlier will be expanded to the 15 fathom contour.

(5) If the Secretary of Commerce does not determine prior to July 15, 1990, that TEDs are being used in 80% or more of the offshore shrimping effort in the Gulf of Mexico by that date, the TED areas and seasons will be increased by **Federal Register** notice until, in the judgment of the Secretary, they are sufficient to cover 80% of that effort.

(6) If the Secretary of Commerce determines prior to July 15, 1990, that Mexico has achieved comparable utilization of turtle excluding gear on the basis of laws, regulations, or other similar measures, including voluntary use, then the extension of coverage provided in note (5) above will not occur.

Enforcement Policy

The rules contain a statement of the agency's policy with respect to the use of civil penalties to enforce the prohibition on taking of endangered and threatened sea turtles by shrimp trawlers that have observed the requirements of these rules. Briefly, it is the Secretary's interpretation and enforcement policy that:

1. Shrimp trawl fishermen failing to use TEDs in areas and at times when required by these rules are in violation of the Act. Actual captures of sea turtles are not required to violate these rules.

2. The Secretary will not take enforcement action against shrimp trawl fishermen who are in compliance with these rules, even if endangered species of sea turtles are captured.

Public Hearing Schedule

Public hearings on these proposed rules and a draft supplemental environmental impact statement will be conducted by NMFS during March, 1987, at the following times and locations:

Bayou La Batre, AL, March 19, 7 p.m., Bayou La Batre Community Center, Padgett Switch Rd.

Key West, FL, March 2, 7 p.m., Key West High School Auditorium, 2100 Flagler Ave.

Cape Canaveral, FL, March 9, 2 p.m., Canaveral Port Authority Commisison Room, 200 George King Blvd.

Brunswick, GA, March 10, 7 p.m., Brunswick National Guard Armony, First and Norwich Sts.

Cameron, LA, March 16, 7 p.m., Cameron Elementary School, Marshall St.

Houma, LA, March 17, 7 p.m., Houma Municipal Auditorium, 880 Verret St.

Kenner, LA, March 18, 7 p.m., the Holidome, 2929 Williams Blvd.

Charleston, SC, March 23, 7 p.m., South Carolina Marine Resources Research Institute, 217 Fort Johnson Rd.

Morehead City, NC, March 13, 7 p.m., Cartaret Technical College, Joslyn Hall, 3505 Arandell St.

Port Isabel, TX, March 19, 7 p.m., Port Isabel High School, Highway 100.

Corpus Christi, TX, March 17, 7 p.m., Texas A & M University Agricultural Research and Extension Center, Highway 44 West.

Galveston, TX, March 16, 7 p.m., Galveston County Courthouse, Jury Assembly Room, First Floor, 722 Moody St.

Washington, DC, March 25, 2 p.m., Room 928, 1825 Connecticut Ave., NW.

Classifications

A final environmental impact statement covering portions of this action was prepared in 1978. An environmental assessment covering prior voluntary efforts to encourage TED usage was prepared in 1983. A draft supplemental environmental impact statement covering the mandatory TED requirements established by these rules concluded that there would be a significant positive impact on the quality of the human environment as a result of adoption of these rules. Copies of the environmental documents may be obtained from the Regional Director at the address listed above.

The NOAA Administrator determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. By 1990, approximately 17,200 vessels of the U.S. shrimp fleet will be required to

purchase and use TEDs if this rule is adopted. The most expensive TED costs $400 and can be expected to last two years. The least expensive TED costs $200 and also can be expected to last two years. The average cost to the industry is estimated as $5.9 million. Some shrimp loss can be expected when TEDs are first installed. It is expected that gear adjustments and changes in trawling techniques will rapidly overcome these initial inefficiencies. Moreover, because most TEDs reduce the amount of undesirable bycatch, the total cost will be offset by reducing the time the nets must be out of the water for cleaning. Prices to consumers are set by market factors and will not be affected by adoption of this rule. A regulatory impact review covering these issues may be obtained from the Regional Director at the address listed above.

An initial regulatory flexibility analysis was prepared as part of the regulatory impact review which concludes this proposed rule, if adopted, would have a significant economic impact on a substantial number of small entities. Certain shrimp trawlers, because of their current configuration and preferred shrimping grounds, will be better able either to avoid or to compensate for the economic costs incurred by the TED requirements. Larger vessels may be easier to equip with TEDs than medium sized vessels or can fish at more distant locations where TEDs are not required. Small vessels using one or two nets of less than 30 foot headrope length are exempt.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act that has been submitted to the Office of Management and Budget (OMB) for approval. Public comments on the new reporting requirements may be sent to OMB (see **"ADDRESSES"**).

The Administrator has determined that this rule is consistent to the maximum extent practicable with the approved coastal zone management programs of six southeastern states. Neither this rule nor the Act preclude any state from adopting more stringent sea turtle protective measures. This determination has been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act of 1972, 16 U.S.C. 1457.

List of Subjects in 50 CFR Parts 217, 222, and 227

Endangered Species, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 25, 1987.

James E. Douglas, Jr.,

Acting Deputy Assistant Adminstrator for Fisheries.

For the reasons set out in the preamble, 50 CFR Parts 217, 222, and 227 are proposed to be amended as follows:

PART 217—[AMENDED]

1. The authority citation for 50 CFR Part 217 continues to read as follows:

Authority: 16 U.S.C. 1521–1543 and 16 U.S.C. 742a, *et seq.*

2. Throughout Part 217, the reference "Parts 217 through 227" is substituted for "Parts 217 through 222" wherever it appears.

3. In § 217.12, the following definitions are added in alphabetical order to read as follows:

§ 217.12 Definitions.

"Headrope length" means the straightline length of that portion of the top rope of a trawl net from which the net is hung measured between the outermost hanging points.

"Inshore" means marine or tidal waters landward of the baseline from which the territorial sea of the United States is measured.

"Offshore" means waters seaward of the baseline from which the territorial sea of the United States is measured.

"Shrimp" means the following species of the order Crustacea:

Brown shrimp—*Penaeus aztecus*
White shrimp—*P. Setiferus*
Pink shrimp—*P. duorarum*
Rock shrimp—*Sicyonia brevirostris*
Royal red shrimp—*Hymenopenaeus robustus*
Seabob shrimp—*Xiphopenaeus kroyeri*

PART 222—[AMENDED]

4. The authority citation for Part 222 continues to read as follows:

Authority: 16 U.S.C. 1531–1543.

5. A new § 222.41 is added to read as follows:

§ 222.41 Policy regarding incidental capture of sea turtles.

Shrimp fishermen in the southeastern United States and the Gulf of Mexico who comply with rules for threatened sea turtles specified in § 227.72(e) of this title will not be subject to civil penalties under the Act for incidental captures of endangered sea turtles by shrimp trawl gear.

PART 227—[AMENDED]

6. The authority citation for Part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

7. Section 227.72 is amended by removing the paragraph captions for (e)(2) and (e)(3) and by adding new paragraphs (e)(2) through (e)(7) to read as follows:

§ 227.72 Exceptions to prohibitions.

* * * * *

(e) * * *

(2) *Gear Requirements:* Except as provided in (e)(2) (i) through (iii) of this section, qualified turtle excluder devices (TEDs) must be carried and used by shrimp trawlers intending to fish for white, brown, pink, or seabob shrimp (or for rock shrimp in the Gulf of Mexico) in the areas depicted in tables 1 and 2 and maps 1 through 6 during the dates indicated.

(i) Shrimp trawlers intending to fish for royal red shrimp (or for rock shrimp in the Atlantic Ocean) are exempt from the TED requirements provided that 90 percent of all shrimp offloaded from, or on board, the trawler must be royal red shrimp (or rock shrimp from the Atlantic Ocean).

(ii) Shrimp trawlers using a single net that has a headrope length of 30 feet or less or using no more than two nets, each of which has a headrope length of 30 feet or less, that are pulled on opposite sides of the trawler and are not connected to each other, are exempt from the TED requirements.

(iii) A single test net having a headrope length of 20 feet or less is also exempt from the TED requirement so long as the test net is pulled immediately in front of a primary net or is not connected to a primary net in any way.

TABLE 1

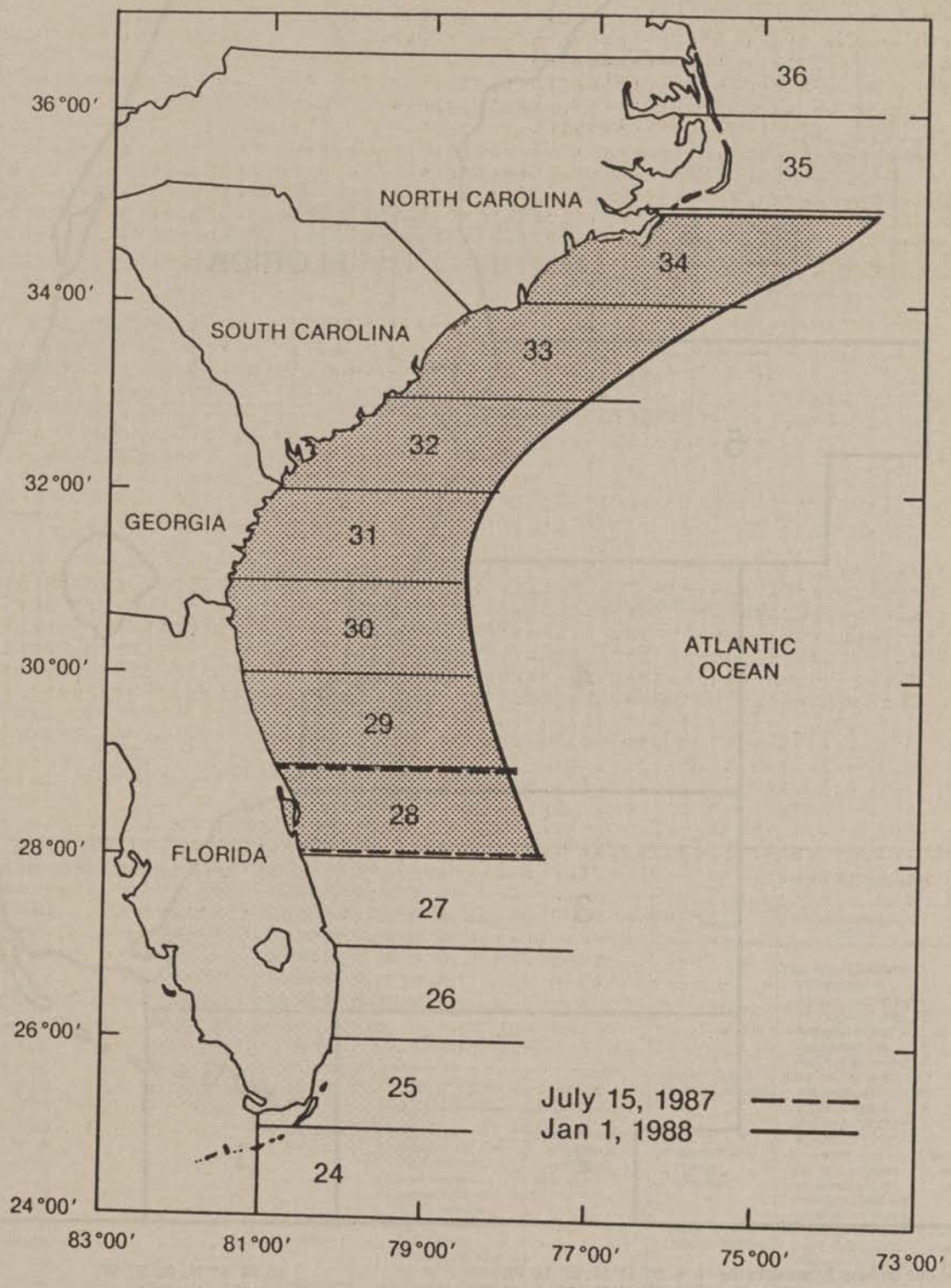
Region	Restricted areas, 1987–88	Dates
Atlantic Coast Offshore.	Ocean waters between 29° and 35° N. latitude.	Between May 1 and Aug. 31 each year to begin Jan. 1988.
	Ocean waters between 28° and 29° N. latitude.	All year to begin July 15, 1987.
Atlantic Coast Inshore.	Bays, sounds, and tidal waters between 28° and 33° 52' N. latitude.	All year to begin Jan. 1, 1988.
Eastern Gulf of Mexico.	Gulf waters between 81° and 84 W. longitude and between 24° and 27° N. latitude and landward of the segmented line depicted on Map 2.	All year to begin July 15, 1987.

TABLE 1—Continued

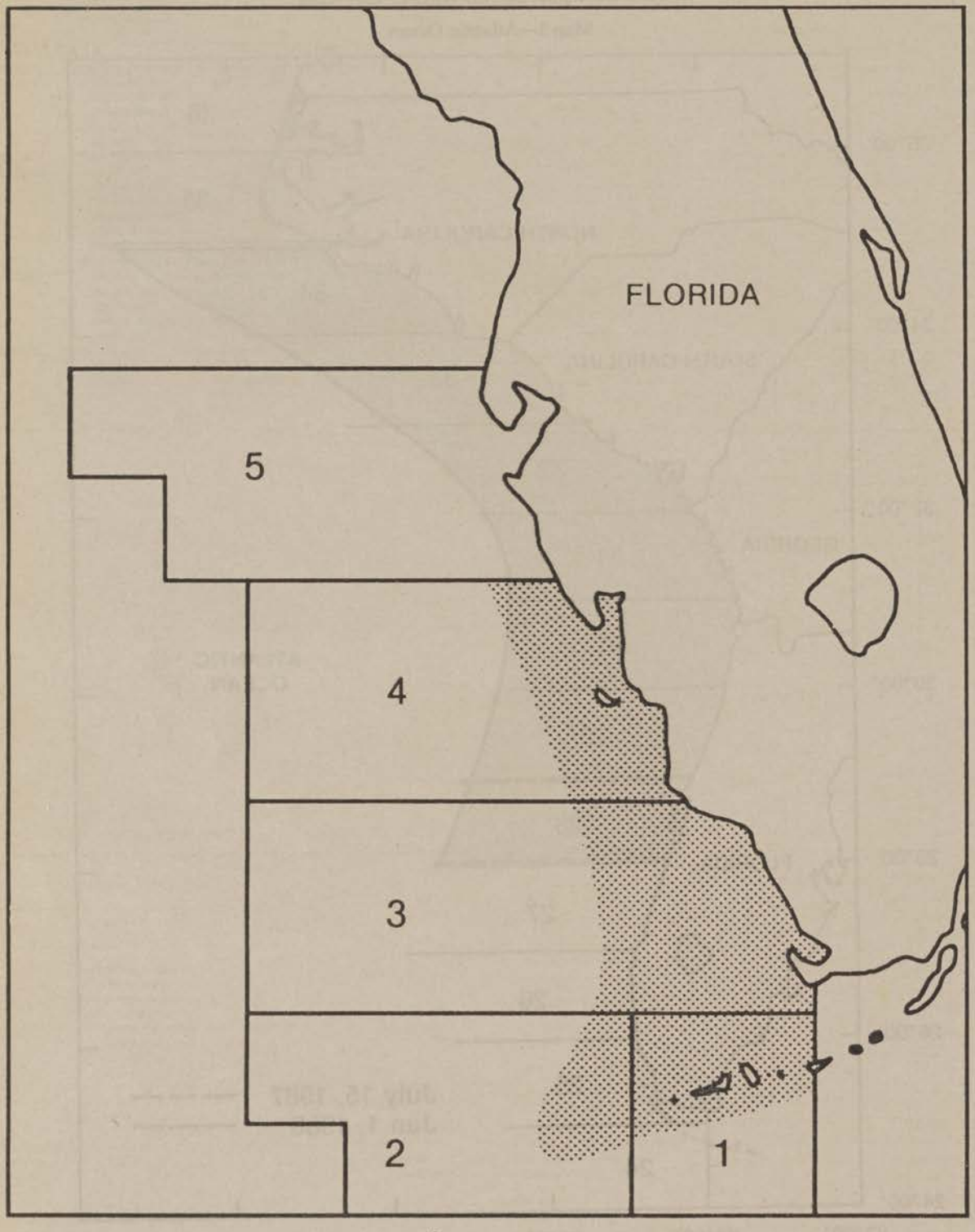
Region	Restricted areas, 1987–88	Dates
Eastern Gulf of Mexico Inshore.	Bays, sounds and tidal waters east of 83° W. longitude and south of 27° N. latitude.	All year to begin July 15, 1988.
Western Gulf of Mexico Offshore.	Gulf waters west of 88° W. longitude and landward of the segmented line depicted on Map 3.	Between Mar. 1 and Nov. 30, each year to begin July 15, 1967.
Western Gulf of Mexico Inshore.	Mobile Bay and all bays, sounds and tidal waters west of 88° W. longitude.	Between Mar. 1 and Nov. 30, each year to begin July 15, 1988.
Louisiana Inshore.....	Breton and Chandeleur Sounds.	Between Mar. 1 and Nov. 30, each year to begin July 15, 1987.

MAPS OF RESTRICTED AREAS 1987–1988

Map 1—Atlantic Ocean



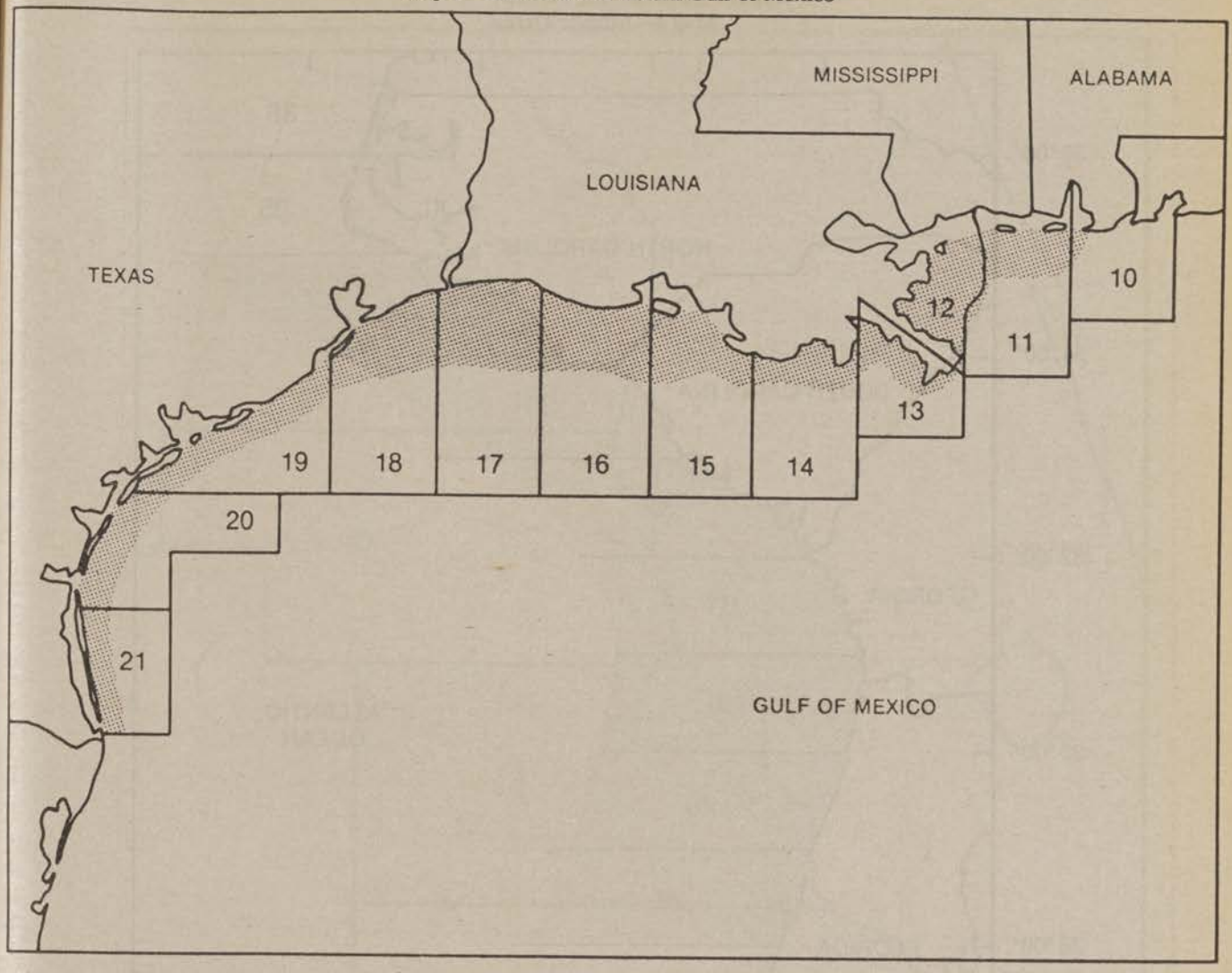
Map 2—Southwestern Florida



The segmented line on Map 2 connects the following 14 points:

1. 27° 00′ N., 82° 39′ W.
2. 26° 26′ N., 82° 26′ W.
3. 26° 16′ N., 82° 30′ W.
4. 26° 11′ N., 82° 14′ W.
5. 26° 02′ N., 82° 15′ W.
6. 25° 41′ N., 82° 04′ W.
7. 25° 15′ N., 82° 04′ W.
8. 24° 51′ N., 81° 58′ W.
9. 24° 44′ N., 82° 03′ W.
10. 24° 40′ N., 82° 33′ W.
11. 24° 29′ N., 82° 44′ W.
12. 24° 25′ N., 82° 40′ W.
13. 24° 28′ N., 81° 43′ W.
14. 24° 39′ N., 81° 00′ W.

Map 3—Central and Western Gulf of Mexico



The segmented line on Map 3 connects the following 33 points:

1. 25° 57′ N., 97° 05′ W.
2. 26° 26′ N., 97° 06′ W.
3. 26° 46′ N., 97° 16′ W.
4. 27° 02′ N., 97° 17′ W.
5. 27° 20′ N., 97° 14′ W.
6. 27° 40′ N., 97° 03′ W.
7. 28° 17′ N., 96° 20′ W.
8. 28° 37′ N., 95° 27′ W.
9. 28° 46′ N., 95° 16′ W.
10. 28° 50′ N., 95° 16′ W.
11. 29° 01′ N., 94° 49′ W.
12. 28° 50′ N., 94° 56′ W.
13. 28° 59′ N., 94° 28′ W.
14. 28° 49′ N., 94° 37′ W.
15. 29° 07′ N., 93° 57′ W.
16. 29° 11′ N., 92° 44′ W.
17. 28° 55′ N., 91° 48′ W.
18. 28° 38′ N., 91° 05′ W.
19. 28° 36′ N., 90° 41′ W.
20. 28° 46′ N., 90° 23′ W.
21. 28° 49′ N., 90° 30′ W.
22. 29° 10′ N., 89° 46′ W.
23. 28° 58′ N., 89° 28′ W.
24. 28° 52′ N., 89° 27′ W.
25. 28° 58′ N., 89° 17′ W.
26. 28° 58′ N., 89° 07′ W.
27. 29° 10′ N., 88° 57′ W.
28. 29° 20′ N., 89° 00′ W.
29. 29° 30′ N., 88° 40′ W.
30. 30° 04′ N., 88° 40′ W.
31. 30° 04′ N., 88° 24′ W.
32. 30° 08′ N., 88° 20′ W.
33. 30° 08′ N., 88° 00′ W.

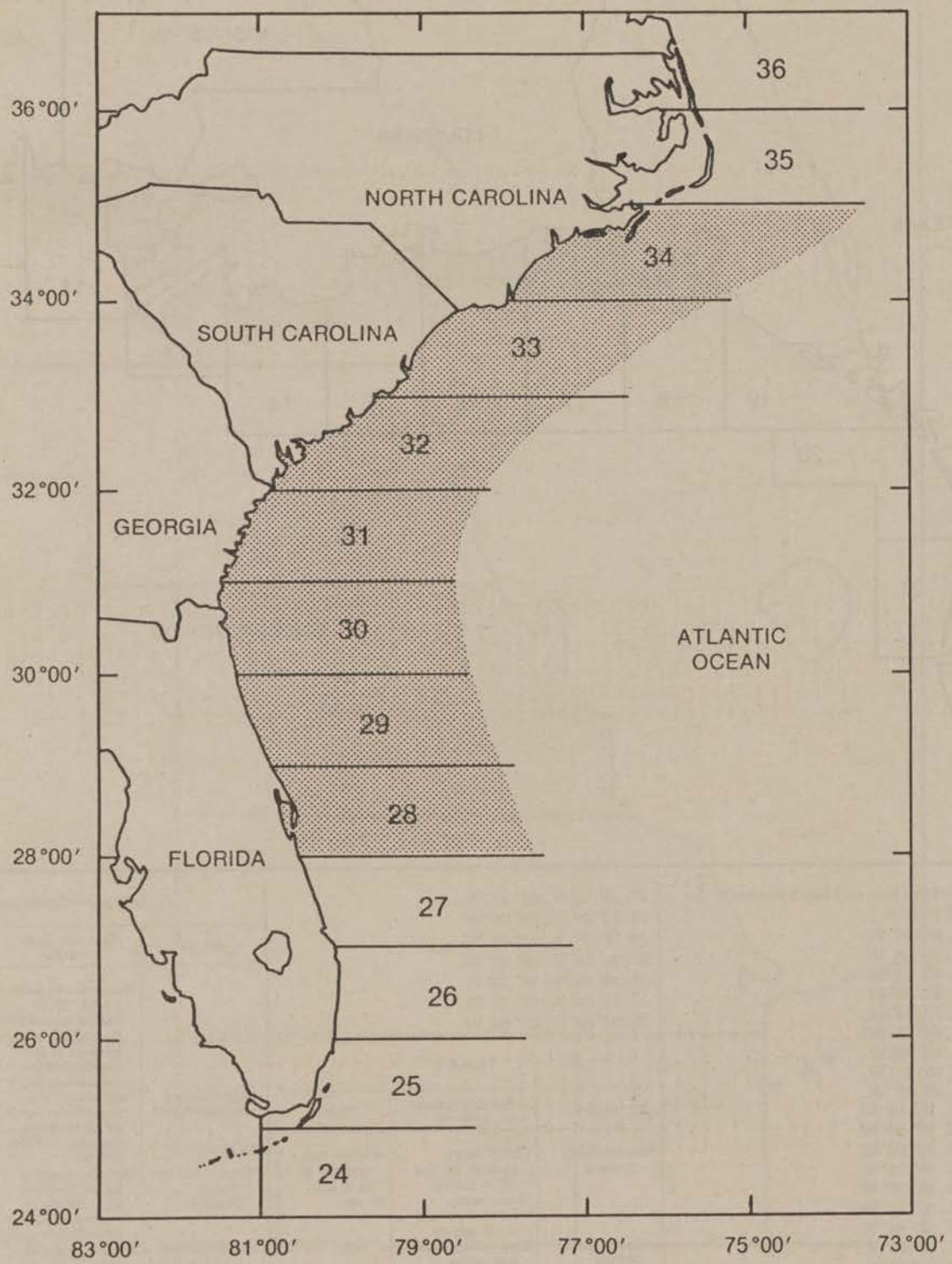
TABLE 2

Region	Restricted areas, 1989-90	Dates
Atlantic Coast Offshore.	Ocean waters between 29° and 35° N. latitude.	Between May 1 and Aug. 31 each year.
	Ocean waters between 28° and 29° N. latitude.	All year.
Atlantic Coast Inshore.	Bays, sounds, and tidal waters between 28° and 33° 52′ N. latitude.	Do.
Eastern Gulf of Mexico Offshore.	Gulf waters between 24° and 25° N. latitude and between 81° and 82° W. longitude.	Do.
	Gulf waters between 26° and 27° N. latitude and east of 84° W. longitude.	Do.
	Gulf waters between 24° and 26° N. latitude, east of 84° W. longitude, and landward of the segmented line depicted on Map 5.	Do.
Eastern Gulf of Mexico Inshore.	Bays, sounds and tidal waters east of 81° W. longitude and south of 27° N. latitude.	Do.
Western Gulf of Mexico Offshore.	Gulf waters west of 88° W. Longitude and landward of the segmented line depicted on Map 6.	Between Mar. 1 and Nov. 30, each year.
Western Gulf of Mexico Inshore.	Mobile Bay and all bays, sounds and tidal waters west of 88° W. longitude.	Between Mar. 1 and Nov. 30 each year.
Louisiana Inshore.	Breton and Chandeleur Sounds.	Between March 1 and November 30, each year.

Note.—If the Secretary does not determine that TEDs were used in 80 percent or more of the Atlantic Ocean shrimping effort in April or September, 1988, respectively, TEDs will be required in the corresponding months in 1989 and 1990.

MAPS OF RESTRICTED AREAS 1989–1990

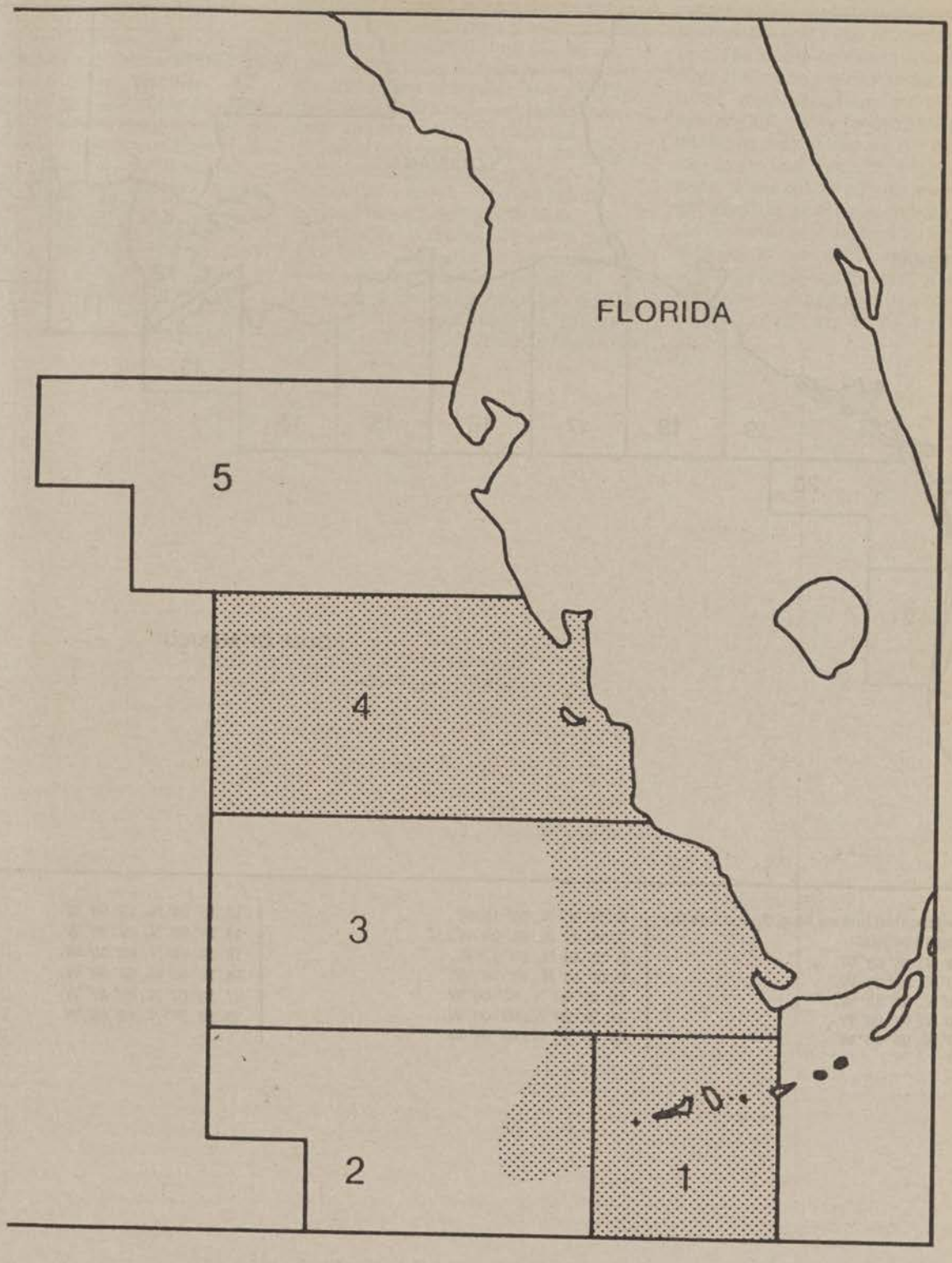
Map 4—Atlantic Ocean



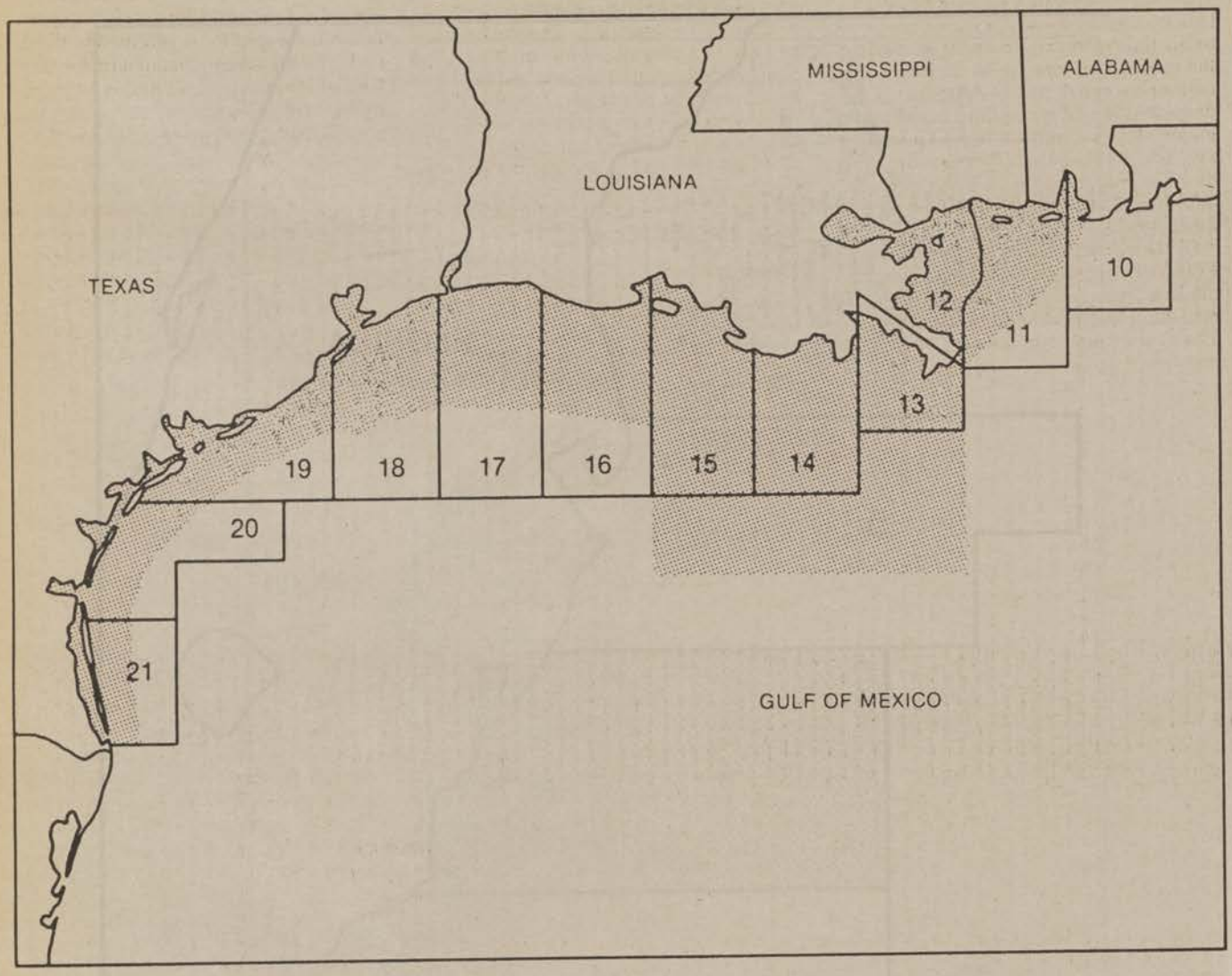
The segmented line on Map 5 connects the following 8 points:

1. 26° 00′ N., 82° 30′ W.
2. 25° 30′ N., 82° 19′ W.
3. 25° 00′ N., 82° 20′ W.
4. 24° 42′ N., 82° 35′ W.
5. 24° 45′ N., 83° 00′ W.
6. 24° 35′ N., 83° 08′ W.
7. 24° 24′ N., 82° 40′ W.
8. 24° 26′ N., 82° 00′ W.

Map 5—Southwestern Florida



Map 6—Central and Western Gulf of Mexico



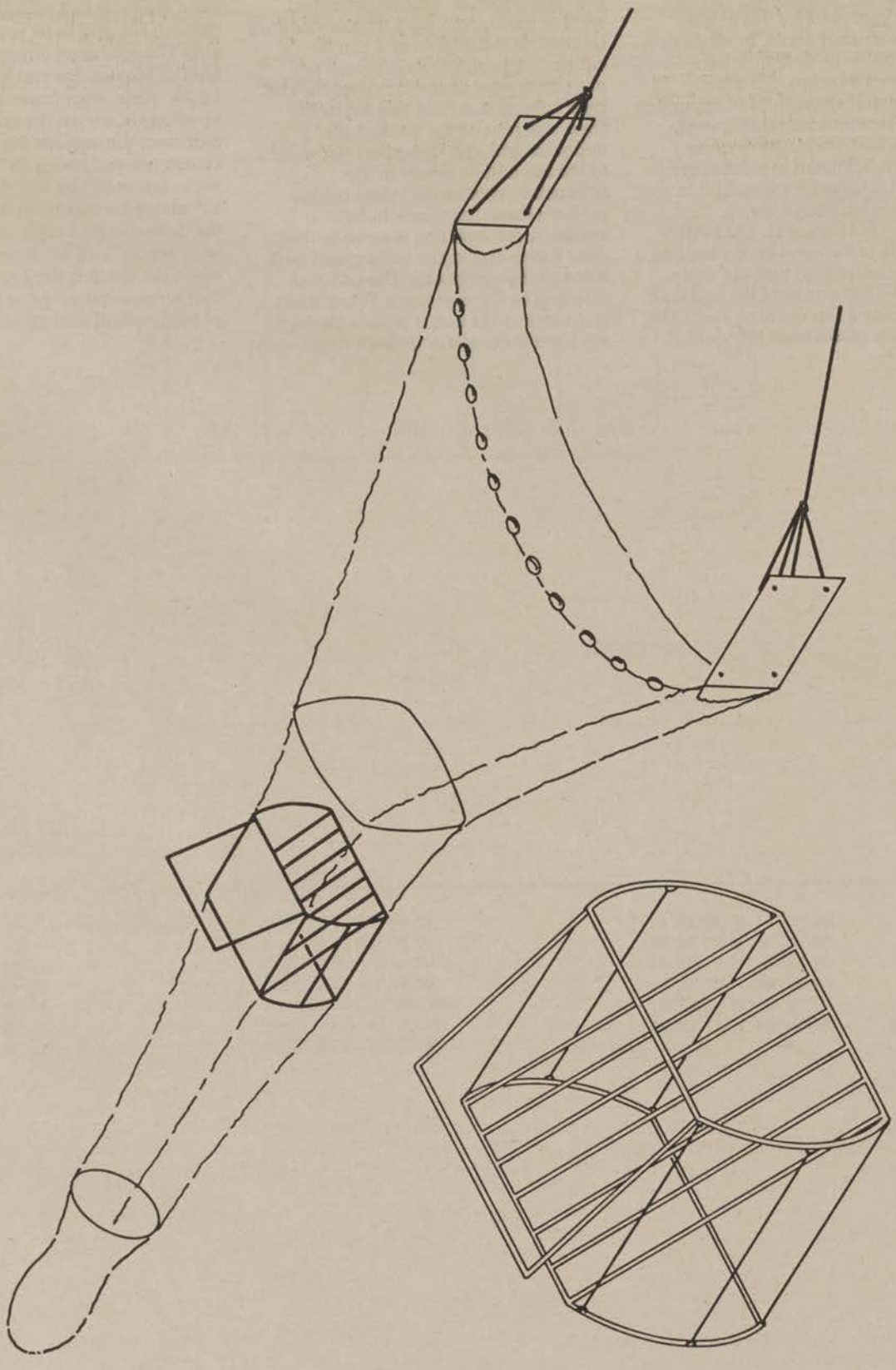
The segmented line on Map 6 connects the following 18 points:

1. 25° 58′ N., 96° 58′ W.
2. 26° 30′ N., 97° 03′ W.
3. 27° 00′ N., 97° 13′ W.
4. 27° 30′ N., 97° 00′ W.
5. 27° 47′ N., 96° 46′ W.
6. 28° 36′ N., 95° 15′ W.
7. 28° 42′ N., 94° 00′ W.
8. 28° 40′ N., 93° 47′ W.
9. 28° 53′ N., 92° 30′ W.
10. 28° 50′ N., 92° 00′ W.
11. 28° 00′ N., 92° 00′ W.
12. 28° 00′ N., 89° 00′ W.
13. 29° 04′ N., 89° 00′ W.
14. 29° 09′ N., 89° 26′ W.
15. 29° 18′ N., 88° 55′ W.
16. 29° 30′ N., 88° 40′ W.
17. 30° 00′ N., 88° 27′ W.
18. 29° 57′ N., 88° 00′ W.

(3) *Qualified turtle excluder devices:* The following turtle excluder devices (TEDs) are approved for use in the indicated restricted areas. In all devices, the spaces between deflector bars cannot exceed 4 inches. All other demensions and strength of construction materials are minimum requirements; *i.e.*, devices that are larger or more durable than indicated are considered qualified. Floats may be attached to any device to provide buoyancy.

(i) NMFS TED (figure 1). The NMFS TED consists of two end hoops holding a diagonal deflector grid that are sewn into the trawl net ahead of the cod end. The device has a top-opening door. The end hoops are made from ½" welded steep pipe. The deflector grid and door are made from ¼" (inside diameter) welded galvanized pipe. The device may be rigid or collapsible and can be constructed using fiberglass rod or aluminum pipe of similar strength. The rigid version has rods welded to the front and rear hoops to align the deflector grid and to support the weight of the net and its catch; in the collapsible version, ⅛" steel cables perform these functions. In both versions, net webbing is sewn to the door frame and to the bottom and both sides of the end hoops. The cod end attaches to the rear hoop. When a sea turtle enters the net, it passes through the front hoop and is deflected upwards by the grid; the turtle is then able to open the door and escape; shrimp pass through the grid to be retained in the cod end. The minimum dimensions for the Gulf of Mexico are end hoops 20" high by 34" wide, door frame 25" by 25", door opening 10" above the rear hoop. The minimum dimensions for the Atlantic Ocean are end hoops 30" high by 45" wide, frame 30" by 30", door opening 12" above he rear hoop. In both areas, the deflector grid angle must measure between 30° and 45° from the horizontal when the deice is deployed. NMFS TEDs that were acquired prior to [insert date of publication] may continue to be used.

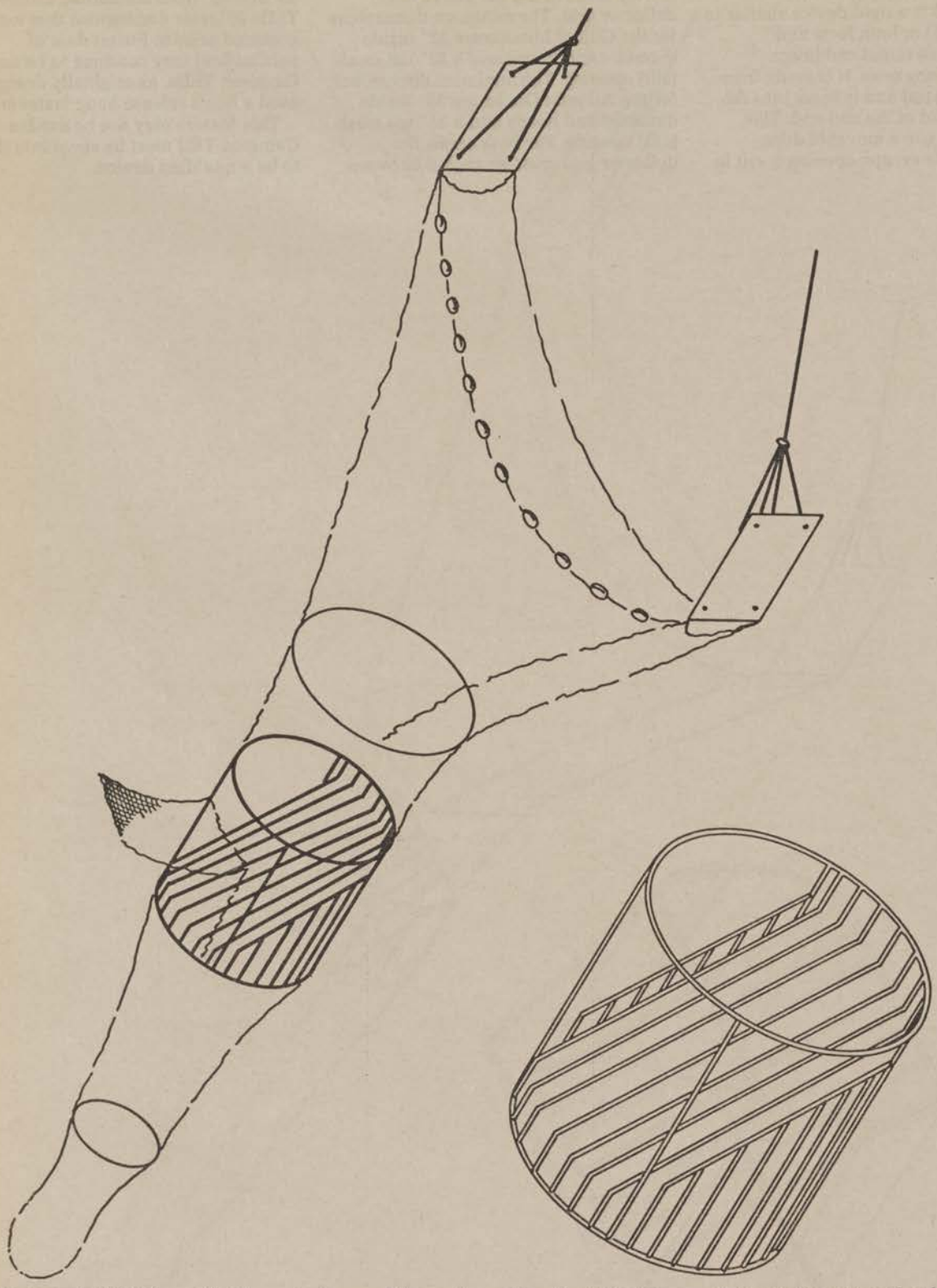
Figure 1 (NMFS TED)



(ii) Cameron TED (figure 2). The Cameron TED is a rigid device similar to the NMFS TED in both form and function. It uses round end hoops instead of oblong ones. It is made from ¼" aluminum rod and is sewn into the trawl net ahead of the cod end. This TED does not use a movable door; instead a turtle escape opening is cut in the top mesh of the net above the deflector grid. The minimum dimensions for the Gulf of Mexico are 32" inside diameter end hoops and a 32" top mesh (slit) opening. The minimum dimensions for the Atlantic Ocean are 35" inside diameter end hoops and a 35" top mesh (slit) opening. For both areas, the deflector grid must be angled between 30° and 45° from horizontal. Cameron TEDs of lesser dimensions that were acquired prior to [insert date of publication] may continue to be used. Cameron TEDs, as originally designed, used a quick release hoop fastener.

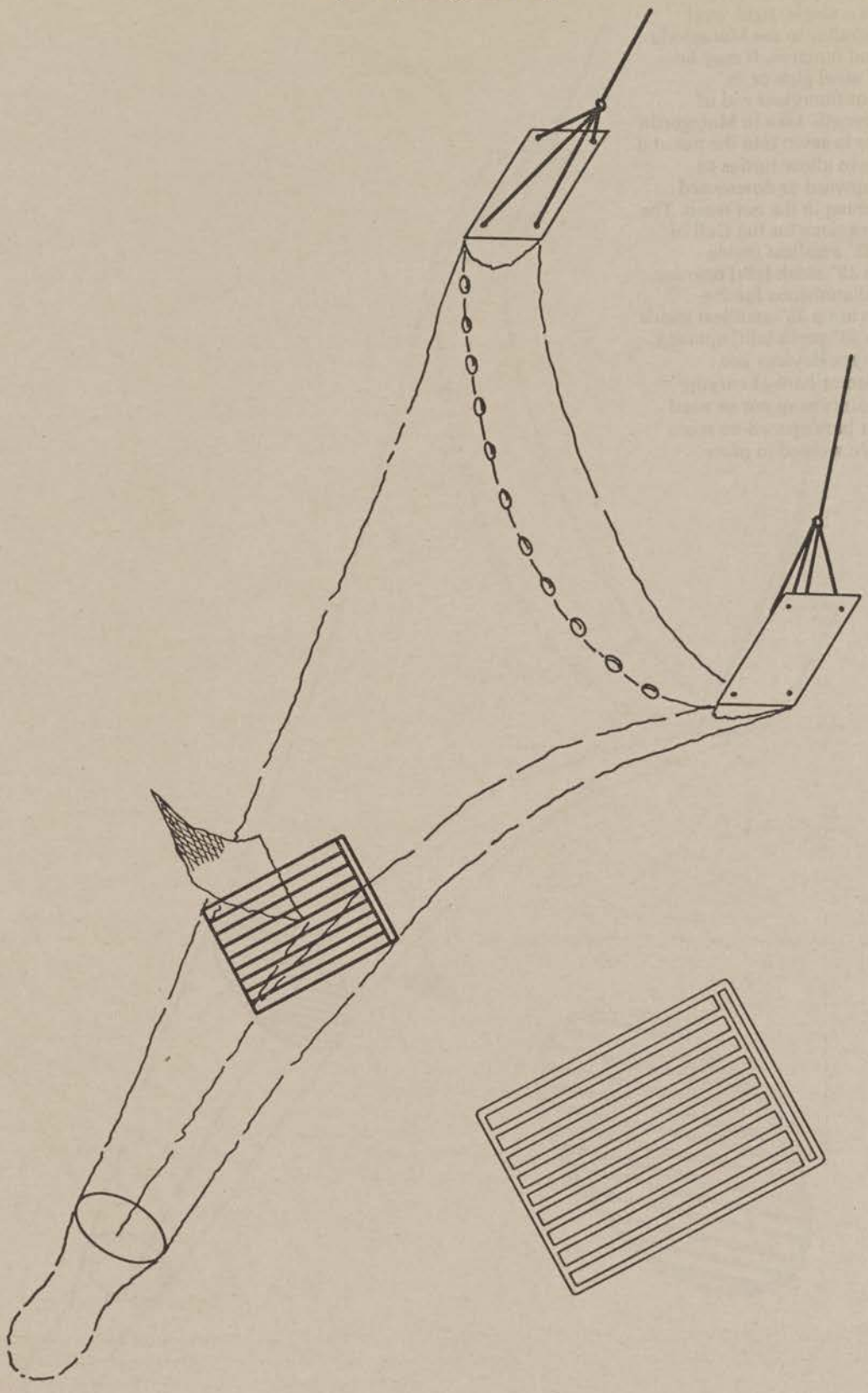
This feature may not be used; a Cameron TED must be sewn into the net to be a qualified device.

Figure 2 (Cameron TED)



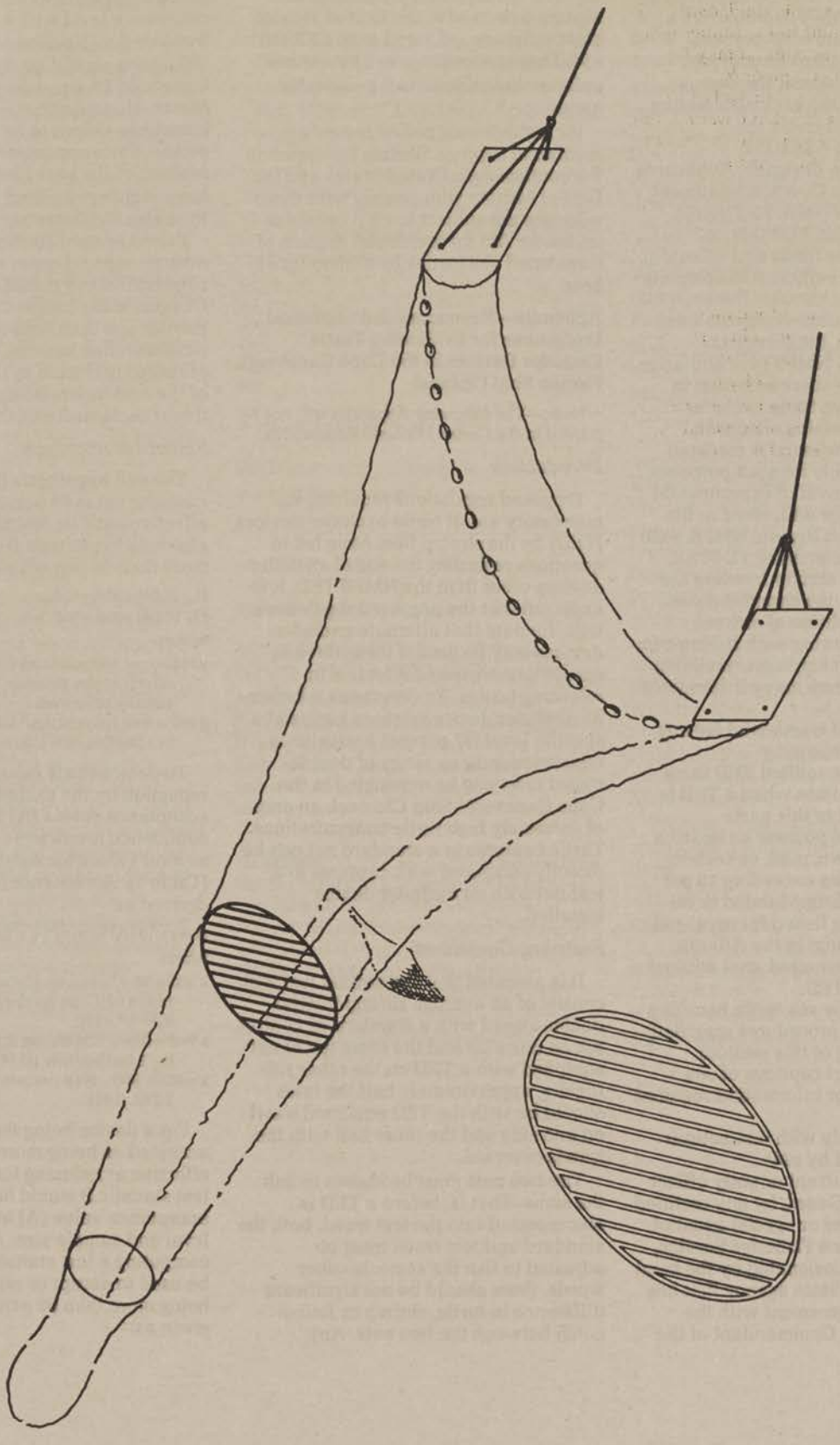
(iii) Matagorda TED (figure 3). The Matagorda TED is a single, rigid, rectangular deflector grid that may be made from a variety of materials including ¼″ steel pipe, ½″ aluminum rod, or fiberglass rod of comparable strength. Unlike the NMPS or Cameron TEDs, the Matagorda TEd does not use two end hoops to position the deflector grid; instead the grid itself must be sewn into the net ahead of the cod end so as to operate at a 30° to 45° angle when pulled through the water. The angled grid deflects turtles either upward or downward to allow them to escape through an opening in the net mesh. The minimum dimensions for the Gulf ot Mexico are a 28″ width, a 36″ length, and a 32″ mesh (slit) opening. The minimum dimensions for the Atlantic Ocean are a 30″ width, a 42″ length, and a 35″ mesh (slit) opening.

Figure 3 (Matagorda TED)



(iv) Georgia TED (figure 4). The Georgia TED is a single, rigid, oval deflector grid similar to the Matagroda TED in form and function. It may be made from ¼" steel pipe or ½" aluminum rod or fiberglass rod of comparable strength. Like to Matagorda TED, the device is sewn into the net at a 30° to 45° angle to allow turtles to escape either upward or downward through an opening in the net mesh. The minimujm dimensions for the Gulf of Mexico are a 32" smallest inside diameter and a 32" mesh (slit) opening. The minimum dimensions for the Atlantic Ocean are a 35" smallest inside diameter and a 35" mesh (slit) opening. Some Georgia-type devices use removable deflector bars of varying spacing; this feature may not be used unless deflector bars spaced no more than 4" apart are welded in place.

Figure 4 (Georgia TED)



(v) Other turtle excluder devices. Additional devices may be approved as qualified TEDs if they demonstrate a turtle exclusion rate of 97 percent according to the scientific protocol published in the **Federal Register** on March 2, 1987. Turtle exclusion testing must be conducted under the supervision of the Assistant Administrator or a designee. Applicants should contact the Director, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149, to determine whether funds and scientific personnel will be sufficient to complete the test protocol.

(vi) Fishing efficiency experiments. From time to time, the Director, Southeast Region, NMFS may authorize public or private experimentation to develop alternative turtle excluder devices or to determine effects on shrimp fishing efficiency. A research protocol is available for such purposes. Requests for approval of experimental programs should be addressed to the Director, Southeast Region, NMFS, 9450 Koger Blvd., St. Petersburg, FL 33702.

(4) *Reports.* All shrimp trawlers are required to report the circumstances, location, and condition of any sea turtles captured during each fishing trip. Preaddressed post cards are available from NMPS and from many fishermen's associations.

(5) *Violations.* If is unlawful for any person to do the following:

(i) Fail to use a qualified TED in an area where or at times when a TED is required pursuant to this part;

(ii) Land from or possess on board a vessel white, brown, pink, or seabob shrimp in quantities exceeding 10 per cent of the total shrimp landed or on board after having fished for royal red shrimp (or for shrimp in the Atlantic Ocean) in a TED required area without using a qualified TED;

(iii) Fail to follow sea turtle handling and resuscitation procedures specified in paragraph (e)(l) of this section;

(iv) Fail to report captures of sea turtles or any other information required by this part; or,

(v) Fail to comply with instructions and signals issued by any commissioned, warrant or petty officer of the U.S. Coast Guard, by any certified enforcement officer or special agent of the National Marine Fisheries Service, or by any officer designated by the head of any Federal or State agency that has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Act. Enforcement procedures and signals now used in the Gulf of Mexico shrimp fishery are listed at 50 CFR Part 658. These procedures will be used to enforce these rules in all geographic areas.

(6) *Enforcement policy regarding incidental capture.* Shrimp fishermen in the southeastern United States and the Gulf of Mexico who comply with these rules are not subject to civil penalties under the Act for incidental capture of threatened sea turtles by shrimp trawl gear.

Appendix—Recommended Statistical Procedures for Evaluating Turtle Excluder Devices in the Cape Canaveral, Florida Ship Channel

Note.—The following Appendix will not be printed in the Code of Federal Regulations.

Introduction

Proposed regulations requiring the mandatory use of turtle excluder devices (TED) by the shrimp fleet have led to questions regarding the use of excluder devices other than the NMFS TED. It is expected that the proposed regulations will stipulate that alternate excluder devices may be used if these devices can be demonstrated effective in releasing turtles. To determine whether an excluder device releases turtles at a specific level (97 percent exclusion is recommended), as series of double-rigged tows can be conducted in the Cape Canaveral Ship Channel, an area of extremely high turtle concentrations. Turtle captures in a standard net can be directly compared with captures in a test net with an excluder device installed.

Sampling Guidelines

It is assumed that the normal test will consist of an average shrimp trawler double-rigged with a standard or control net on one side and the same tpe of net equipped with a TED on the other side. Ideally, approximately half the tows should be with the TED equipped trawl on one side and the other half with the trawls reversed.

The two nets must be shown to fish the same. That is, before a TED is incorporated into the test trawl, both the standard and test trawl must be adjusted to fish the same. In other words, there should be not significant difference in turtle, shrimp or finfish catch between the two nets. Any difference between the two nets should not be significant at the 95 percent confidence level with 4 degrees of freedom (i.e., 5 paired tows).

All tests should be done in Cape Canaveral Channel during February and March. Historical turtle capture rates have been shown to be high during this period. Tests conducted during other seasons of the year likely will require a large number of paired tows because of the expected lower number of turtles.

Paired tows of 30 minutes are recommended. Longer tows are permissible, but conditioins in the Channel make longer tows very difficult. Shorter tow durations are not recommended because of the tendency of turtles to remain in the front portion of the nets before being washed into the throat sections for exclusion by TED's

Statistical Approach

The null hypothesis (H_o) that the excluder net is 96 percent or less effective, will be tested against the alternate hypothesis (H_a) that the net is more than 96 percent effective as:

H_o: (0.04) μstd − ted < o.
H_a: (0.04) μstd − ted > o.

where

μstd = true (population) CPUE (catch per unit effort) of the standard net (turtles/tow), usually unknown

μted = true (population) CPUE of the excluder net (turtles/tow), usually unknown

To demonstrate more than 96 percent reduction by the excluder net, acceptance values (A) for three confidence levels were computed using several values for number of tows (Table 1). Acceptance levels were derived as:

$$A = z\sqrt{(0.04)^2 s^2 std/n + s^2 ted/n}$$

where

s^2std = 36 − based on the maximum expected range of 0 − 24 turtles/tow [(24/4)^2 = 6^2 = 36];

s^2ted = 0.065 − based on an expected range of 0 − 1 turtles/tow [(1/4) = (0.25)^2 = 0.0625];

z = 95th, 90th, 80th percentile z scores (1.645, 1.282, 0.84)

For a device being tested to be accepted as being more than 96 percent effective at reducing turtle captures, the test statistic B would have to exceed the acceptance value (A) at the specified level and sample size. A formula for computing a test statistic B, which can be used to accept or reject a device as being more than 96 percent effective, is given as:

B=(0.04) *std–*ted where
*std=observed CPUE of the standard net;
*ted=observed CPUE of the excluder net;

Essentially, the test statistic B computed for a given number of paired tows would be compared to the acceptance values (A) in Table 1 to determine if the values were exceeded. If B exceeds these values (A), then the device being tested would be accepted as excluding 97 percent of the turtles. Some examples of how Table 1 and the B statistic would be used follow:

1. A trawler catches 120 turtles in the standard net and 1 turtle in the excluder net over 20 tows—substituting into the formula: B=(0.04) 120/20−1/20=0.19. We would certify the net as 97 percent effective at all confidence levels.

2. If this same trawler caught 120 turtles in the standard net and 1 turtle in the excluder net over 50 tows—the computation, B=(0.04) 120/50−1/50=0.076, would lead to rejection at the 95 percent confidence level, but acceptance at the 80 percent and 90 percent confidence levels.

3. If this trawler caught 200 turtles in the standard net and 4 turtles in the excluder net over 10 tows—B=(0.04) 200/10−4/10=0.40. We would accept the device as 97 percent effective at all confidence levels.

The sample sizes and acceptance levels given in Table 1 should be reviewed only as guidelines. It is reasonable to assume that the required sample sizes and acceptance values will vary depending on test conditions and the number of turtles caught under test conditions. In all instances, test conditions need to be carefully defined and, ideally, a comprehensive statistical treatment of the data be done to demonstrate reasons for accepting or rejecting a test device for excluding turtles at the desired 97 percent level.

TABLE 1.—ACCEPTANCE LEVELS (A) WHICH MUST BE EXCEEDED BY THE TEST STATISTIC B [1] FOR CERTIFICATION THAT AN EXCLUDER DEVICE IS 97 PERCENT EFFECTIVE. THE ACCEPTANCE LEVEL WILL VARY ACCORDING TO SAMPLE SIZE AND REQUIRED CONFIDENCE LEVEL

[90 Percent confidence level]

No. of tows	Acceptance level A
10	0.14049
20	.09934
30	.08111
40	.07025
50	.06283
60	.05737

[1] B=(0.04) *std−*ted.

[FR Doc. 87–4329 Filed 2–27–87; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Part 671

Tanner Crab Off Alaska

AGENCY: National Marine Fisheries Service (NMFS) , NOAA, Commerce.

ACTION: Notice of availability of a Secretarial amendment repealing the fishery management plan for the commercial Tanner crab fishery off the coast of Alaska and request for comments.

SUMMARY: NOAA issues this notice that the Secretary of Commerce (Secretary) has submitted to the North Pacific Fishery Management Council (Council) a Secretarial Amendment repealing the Fishery Management Plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska (FMP) and its implementing regulations and is requesting comments from the public. Copies of the Secretarial Amendment may be obtained at the address below.

DATE: Comments on the amendment will be accepted until April 22, 1987.

ADDRESSES: All comments should be sent to Robert W. McVey, Regional Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802. Copies of the Secretarial Amendment and the draft environmental assessment are available from Raymond E. Baglin, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin, 907–586–7229.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*), section 304(c), provides authority for the Secretary to prepare necessary amendments to FMPs. On December 9, 1986, the Council voted unanimously to request the Secretary to prepare a Secretarial Amendment to repeal the FMP and its implementing regulations to allow the Council time to prepare a new FMP.

This Secretarial Amendment is necessary because the current FMP and its implementing regulations fail to provide for timely Federal coordination with the State of Alaska' s management actions and may result in violation of National Standards 1, 2, 5, 6, and 7 of the Magnuson Fishery Conservation and Management Act.

Proposed regulations for this amendment will be published within 15 days.

Dated: February 25, 1987.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 87–4252 Filed 2–25–87; 12:35 pm]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 52, No. 40
Monday, March 2, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Agency Information Collection Activities Under OMB Review

AGENCY: ACTION.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the Federal Domestic Volunteer Agency.

Background

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection propodal described below to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [requests for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

Need and Use

The Volunteer Application and Reference Forms are the only means by which ACTION can collect the necessary data to determine an applicant's eligibility, and suitability for VISTA Volunteer service.

Information About This Proposed Collection

Agency Clearance Officer—Melvin E. Beetle, (202) 634–9318.

Agency Address: ACTION, 806 Connecticut Ave., NW., Washington, DC 20525.

Office of ACTION issuing the proposal: Domestic operations/VISTA.

Title of Form: VISTA and other ACTION full-time volunteer application.

Type of Request: 9-month extension.

Frequency of Collection: Non-recurring (each applicant applies once only).

General Description of Respondents: Individual citizens age 18 years or older.

Estimated Number of Annual Responses: 2,000.

Estimated Annual Reporting or Disclosure Burden: 3,500 hours.

Respondents's Obligation to Reply: Required to obtain benefits.

Person responsible for OMB Review: Judy Egan, (202) 395–6880.

Dated: February 20, 1987.

Melvin E. Beetle,

ACTION Clearance Officer.

[FR Doc. 87 4216 Filed 2–27–87;8:45am]

BILLING CODE 6050–28–M

VISTA Supervision and Transportation Support Guidelines; Proposed Revision

AGENCY: Action.

ACTION: Proposed revisions to VISTA supervision and transportation support guidelines.

SUMMARY: This notice proposes revisions to existing VISTA Supervision and Transportation Support Guidelines published in the **Federal Register** on February 5, 1975 (40 FR 5388). The revisions, minor in nature, are intended to update and clarify existing Agency policy regarding this aspect of VISTA Volunteer support.

DATE: Written comments should be submitted by April 1, 1987.

FOR FURTHER INFORMATION CONTACT: Diana London, VISTA Branch Chief, ACTION, 806 Connecticut Avenue NW., Washington, DC 20525, (202) 634–9424.

SUPPLEMENTARY INFORMATION: Pursuant to section 105(b) of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113), the Director of ACTION shall provide VISTA Volunteers such transportation and supervision support as deemed necessary and appropriate, and shall insure that each volunteer has available such support as will enable the volunteer to effectively perform the work to which the volunteer is assigned.

The proposed revisions to the existing Guidelines are:

1. VISTA sponsors, except those defined as "grassroots", will be required to assume at least 10% of ACTION-provided supervision and/or transportation support costs after the project's first year of operation. Although the existing Guidelines provide for a phase-down of ACTION support, they do not specify the amount of the sponsor's contribution.

2. Some flexibility will be added to the current requirement that a project must average at least eight volunteers on-site in order to be eligible for fulltime supervision funding. ACTION Regional Directors, under the proposed Guidelines, would be able to waive this requirement in the case of first-year supervisory grants to grassroots groups.

3. The proposed Guidelines add a new requirement that a project must average at least four volunteers on-site in order to be eligible for any supervision funding.

4. The dollar-level definitions previously used to determine eligibility for certain percentage-levels of ACTION-provided supervision and/or transportation support have been eliminated. Under the proposed Guidelines, large well-established non-profit organizations or institutions with sizable budgets and staffs are eligible for ACTION funding, but will receive a lower priority than "grassroots" sponsors. They are also not eligible for a waiver of the phaseout funding schedule provided to grassroots groups.

5. Federal, State and large, local government agencies will be eligible for funding in the first year of a project's operation. Previously, such entities were ineligible for ACTION funding. Small, local government agencies and tribal governments are not covered by this one-year restriction.

Section 420 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5060) was amended in 1979 to define the term regulation and to detail the procedures to be followed in prescribing regulations. Through its broad definition of a regulation, the section requires that "any rule, regulation, guidelines, interpretation, order, or requirement of general applicability" issued by the Director of ACTION must be published with a 30-day comment period except in certain limited circumstances. These Guidelines, although not regulations under the Administrative Procedure Act (5 U.S.C. 551 et seq.) may, in whole or in part, be published in proposed form for comments.

ACTION has determined that VISTA Supervision and Transportation Support guidelines are not major rules as defined in E.O. 12291. This determination is based on the proposed grants' size and purpose, neither of which will result in the economic impact of a major rule.

1. Purpose

Section 105(b) of the Domestic Volunteer Service Act of 1973, Pub. L. 93–113, as amended, requires the Director of ACTION to ensure that each Volunteer serving under Title I, Part A of the Act has available such allowances and support as will enable them to carry out the purpose and provisions of the Act and to perform their assignments effectively. In accordance with section 105(b) and these guidelines, ACTION may make a commitment through a grant, agreement, or other arrangement with a sponsor to pay for on-the-job transportation and supervisory support of such Volunteers.

This order establishes the policy and guidelines for determining:

a. The circumstances under which grants or other arrangements for ACTION contributions to on-the-job transportation expenses of VISTA Volunteers may be negotiated between ACTION and the sponsor; and

b. The circumstances under which grants or other arrangments for ACTION contributions to the cost of providing supervision for VISTA Volunteers may be negotiated between ACTION and the sponsor.

2. Scope

Provisions of this policy and guidelines apply to VISTA sponsors and Volunteers serving under Part A, Title I of Pub. L. 93–113, as amended.

3. Background

While ACTION/VISTA must ensure that Volunteers have available such allowances and support as will enable them to perform their project assignments effectively, the provision of adequate on-the-job transportation and supervision for VISTA Volunteers is primarily the responsibility of the project sponsor.

ACTION/VISTA recognizes, however, that in some instances sponsoring organizations requesting Volunteers for projects that conform to ACTION/VISTA's programming criteria may need assistance in providing this support. ACTION Regional Offices are provided with limited obligational authority for the purposes of entering into transportation and/or supervision arrangements with VISTA project sponsors

When such arrangements are established with a sponsoring organization, they are to provide for the direct support of Volunteer transportation and supervision. They are not intended to provide for other support needed to accomplish the goals of the project. All other overhead expenses such as supplies, materials, and equipment are the sole responsibility of the sponsoring organization.

4. Policy

ACTION/VISTA will provide full or partial funding for on-the-job transportation of VISTA Volunteers and/or for hiring of persons responsible for supervision of the Volunteers, but only in those cases where such support is deemed by the ACTION Regional Director to be:

(1) Necessary to the effective functioning of the Volunteers on the project, and

(2) Within these guidelines.

a. In all such cases, except as noted in Paragraph 7a below, the transportation and/or supervision arrangements will provide for a phase-down of ACTION support after the first year of the project and the gradual assumption of this support by the sponsoring organization over the life of the VISTA project. The Memorandum of Agreement negotiated between ACTION and the sponsoring organization will reflect a decreasing level of ACTION provided project support in the subsequent year(s) of the VISTA project. The sponsor will be required to assume at least 10% of the original amount of ACTION-provided project support costs for supervision and/or transportation in each of the subsequent funding periods.

Although subsequent Memoranda of Agreement, except as noted in Paragraph 7a below, will reflect a decrease in ACTION funding support, they will not reflect a decrease in the level of effort. However, if a change in the level of effort, as negotiated between ACTION and the sponsor, results in a decrease, or increase, in volunteer strength in the subsequent year(s) of the VISTA project, the level of project support provided by ACTION and the sponsor will be proportionately adjusted.

b. When a supervision and/or transportation arrangement is approved, the nature of the agreement between ACTION and the sponsor will be reflected in the Memorandum of Agreement. Any Agreement whereby ACTION/VISTA provides funds for these purposes will include provisions to ensure that:

(1) Services are furnished at a reasonable rate;

(2) The rate conforms to sponsor's hiring policies and/or local prevailing salary levels;

(3) Any expense incurred by the sponsoring organization over the agreed amount will be at its own expense.

c. In developing new projects, State Offices shall take into account the travel and supervisory requirements of the proposed project. When possible, attempts should be made to develop projects so that a minimum of volunteer transportation, consistent with the needs of the project, is required, and so that supervisory responsibility can be readily absorbed into the existing structure of the organization. ACTION/VISTA project support funds will be provided only when the needs of the VISTA project and the assigned VISTA Volunteers cannot be met by the sponsor's own structure and resources.

5. Guidelines for Transportation Arrangements

The Regional Director will establish the following facts before approving provision of ACTION funds to support on-the-job transportation for VISTA Volunteers:

a. Necessity of transportation for Volunteers to achieve the goals/objectives of the project as outlined in the project application;

b. Inability of the sponsoring organization to provide adequate transportation;

c. Prohibition against using ACTION-provided on-the-job transportation funds to transport Volunteers to and from their regularly assigned post, or to transport or provide delivery services to members of the target population.

The Regional Director will consider budget constraints, available resources, and program and geographic priorities in distributing VISTA on-the-job transportation funds.

6. Guidelines for Supervision Arrangements

The Regional Director will establish the following facts before approving provision of ACTION funds to support on-the-job supervision of VISTA Volunteers:

a. Necessity of full or part-time supervision for Volunteers to achieve the goals/objectives of the project as outlined in the project application;

b. Inability of the sponsoring organization to provide adequate supervision;

c. Number of VISTA Volunteers assigned to the project during the period

covered by the Memorandum of Agreement:

(1) ACTION will not fund a full-time supervisory position on a project which averages fewer than eight Volunteers over the course of the Agreement. Regional Directors may, however, reduce this requirement in the case of first-year supervisory grants to grassroots sponsoring organizations as defined in Paragraph 7a below.

(2) Projects averaging 3 or fewer Volunteers over the course of the Agreement will not be eligibile for *any* ACTION supervisory funding.

d. Less than full-time supervision may be funded by ACTION if:

(1) At least an average of 4 volunteers serve on the project during the term of the Agreement; and

(2) The supervisor(s) spends at least 50% time directly supervising the VISTA Volunteers, with ACTION funding up to 50% of the salary(ies).

The Regional Director will consider budget constraints, available resources, and program and geographic priorities in distributing VISTA supervision funds.

7. Procedures for Determining Conformance to Guidelines

In order to determine the applicability of the guidelines for supervision and/or transportation grants (paragraphs 5 and 6 above), ACTION Regional Directors will use the following standards:

a. Grassroots organizations which are under the operational policy direction of members of the group that the organization is designed to serve, with limited budget and staff, are eligible for up to 100 percent ACTION funding of transportation and/or supervision needs in the first year of the VISTA project. The phase-out funding schedule described in Paragraph 4 above may be waived by the Regional Director for up to three years for grass roots project sponsors, umbrella sponsors of grassroots project components, and tribal governments.

b. Large, well-established non-profit organizations or institutions with sizable budgets and staffs may be considered for ACTION funding of volunteer on-job transportation and/or supervision if necessary for the effective functioning of Volunteers on the project.

However, such organizations will receive a lower priority in the awarding of ACTION project support grants than those in category a. above, and no waiver of the phaseout funding schedule is allowed.

In determining the level of resources provided to large, well-established organizations, ACTION will take into consideration the resources, or access to resources, already enjoyed by the organization as well as the needs of the VISTA project.

c. Federal, State and large, local government agencies are eligible for ACTION funding of volunteer transportation and/or supervision only in the first year of a project's operation. This one-year restriction does not apply, however, to small local government agencies and to tribal governments.

Government agencies will receive a lower priority in the awarding of ACTION project grants than those in categories a. and b. above.

8. Elimination or Reduction of Transportation and/or Supervision Funding

a. As a general rule, the level of funding contained in an ACTION project support grant will be maintained throughout the term of the annual Memorandum of Agreement between ACTION and the sponsoring organization. However, types of conditions which may cause the reduction or elimination of project support during the term of the annual Agreement are:

(1) Amendment by mutual agreement between ACTION and the sponsor;

(2) Termination by the sponsor for any reason;

(3) Reassignment, resignation, or termination of Volunteers from the project before their term of service has ended with no replacements during that budget year;

(4) Substantial changes in volunteer assignments; or

(5) Suspension or termination in accordance with Subpart A, 45 CFR Part 1206.

b. All VISTA project support Notices of Grant Award will contain language indicating that the grant may be reduced or eliminated in accordance with the provisions of this Order and the Memorandum of Agreement.

Signed at Washington, DC, this 19th day of February, 1987.

Donna M. Alvarado,

Director.

[FR Doc. 87-4217 Filed 2-27-87; 8:45 am]

BILLING CODE 6050-28-M

ACTION Drug Alliance; Availability of Funds—Demonstration Grants

Opening Statement

ACTION, The Federal Domestic Volunteer Agency, has been directed by the President and the Congress to respond to a crisis of National proportions: The proliferation of drug abuse across all sectors of our society. The Agency, historically a principal source of volunteer leadership in America, reaches out to those in need through the selfless efforts of families, friends, neighbors and fellow citizens. The insidious nature of drug abuse in this country requires innovative and enduring programs of prevention and education—programs ACTION is uniquely prepared to foster through its demonstrated ability to encourage and sustain the spirit of voluntarism at the local level.

While recognizing that drug abuse cuts across all age, social and economic boundaries, ACTION is particularly sensitive to the conditions that lead to drug abuse by America's youth and the elderly. ACTION is interested in models that strengthen the family and provide positive alternatives to drug abuse.

The development of ACTION Drug Alliance grants to support innovative drug abuse prevention and education projects assumes that those applying for such grants are committed to mobilizing local resources to institutionalize these programs in the commuity.

ACTION expects full cooperation from all sectors of the community, including local businesses, and the direct involvement of those whom grantees seek to help. ACTION strongly advises applicants to encourage project beneficiaries to participate extensively in the planning and delivery of their services.

ACTION requires that the addition to the first period of operation, voluntarism be an integral part of project planning, service delivery and activities projected beyond ACTION funding. Project proposals under this announcement must reflect a clear understanding that ACTION funding is limited to a single, non-renewable grant, though the grant period may extend over a two-year time frame.

A Conditions

ACTION Drug Alliance grants are directed at programs of drug abuse *prevention* through public awareness and education, and are not intended to address *treatment* issues.

Applicants may submit proposals for ACTION funding up to $35,000.

Public agencies, and public and private non-profit organizations are eligible.

ACTION grants are intended to seed projects with funds not exceeding a two-year period. Applicants must acknowledge that the grants will not be renewed and must demonstrate this understanding by including operating

plans for operating without federal funding.

Applicants must submit a detailed plan addressing recruitment, training, management and supervision. These plans must lend themselves to mid-cycle and project-end analysis to determine the project's effectiveness.

Applicants must include endorsements from third-party partners and involve these partners from planning through project implementation. Third-party partners—profit or non-profit—must indicate that they have reviewed the project application, agree with the project's aims, and state their intentions to support the project's goal of self-sufficiency. These requirements may be waived under extraordinary circumstances, but the applicant must specify in the submitted proposal why endorsements could not be secured and what alternative means will be utilized to establish self-sufficiency.

Project beneficiaries should become an integral part of the planning and operation of these projects.

Applicants must provide a written statement indicating a willingness to participate in an evaluation conducted by ACTION.

B. Review Criteria

In addition to the conditions set forth above, all applications will be reviewed according to the following criteria to determine the extent to which:

1. The community's needs are well documented and justify the award of a grant;

2. The applicant's strategies and goals, private sector partnership, and letters of third party endorsement indicate the likelihood that the project will be continued beyond the first grant period by corporate and/or private, non-profit support;

3. Appropriate sectors of the community, including the intended beneficiaries of the project, have been involved in the project planning and will be involved in the operation;

4. The applicant justifies the selection of the project goals and objectives and demonstrates a coherent plan for mobilizing volunteers and other resources to achieve a determined impact on the community's ability to prevent drug abuse;

5. The goals and objectives for recruitment, training, supervision, management and for the overall project are time-phased, quantified, measurable, and amenable to interim and final analysis;

6. The budget items are justified in terms of the proposed cost and project operation;

7. The proposed model emphasizes strengthening the family as the primary unit for drug prevention and education;

8. Models that address youth emphasize positive alternatives to drug abuse.

C. Awared Criteria

The following criteria will be considered in the decision to fund applications:

1. The overall quality of the project as determined by the Agency review process.

2. The significance of the project in terms of increasing knowledge of successful strategies to volunteer drug abuse prevention and education projects.

3. Geographic distribution.

4. Availability of funds.

D. Available Funds and Scope of the Grant

ACTION announces that $1,500,000 is available for grants under this announcement. Applicants can apply for a grant of no more than $35,000. Publication of this announcement does not obligate ACTION to award any specific number of grants or to obligate any specific amount of money for demonstration grants.

E. Application Screening and Review Process

The ACTION State and Regional Offices will review and screen all applications. Regional offices will forward all applications to the ACTION Drug Alliance Office.

The ACTION Drug Alliance Office will review the recommended applications and make the final selections.

ACTION reserves the right to ask for evidence of any claims of past performance or future capability.

F. Application Submission and Deadline

All grant applications must be received by the appropriate ACTION State Office by 5 p.m. (local time) April 17, 1987 and consist of:

a. Application for Federal Assistance (SF 424 pages 1–2 and ACTION FORM A–107 pages 3–7) with a narrative budget justification and a narrative of project goals and objectives;

b. A statement of need;

c. A rationale in narrative form for achieving project goals;

d. CPA certification of accounting capability;

e. Articles of Incorporation;

f. Private non-profit organizations provide proof of non-profit status, or an application for non-profit status documentation;

g. Resume of candidates for the position of Project Director, if available, or the resume of the Director of the applicant agency or project;

h. Organization chart of the project and its relationship to the parent organization;

i. A written statement indicating a willingness to participate in an evaluation conducted by ACTION;

j. Endorsements form third-party partners;

k. A written statement acknowledging that ACTION's funding role is limited to a maximum two-year non-renewable grant.

To receive an application form, please contact the ACTION Drug Alliance Office, 806 Connecticut Ave., NW., Washington, DC 20525 (202) 634–9132/9784.

Signed in Washington, DC, on February 20, 1987.

Donna M. Alvarado,

Director of ACTION.

[FR Doc. 87–4322 Filed 2–27–87; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspector Service

Designation Renewal of the Alton (IL), Grand Forks (ND), and McCrea (IA) Agencies

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Alton Grain Inspection Department (Alton), Grand Forks Grain Inspection Department (Grand Forks), and John R. McCrea Agency (McCrea) as official agencies responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act).

EFFECTIVE DATE: April 1, 1987.

ADDRESS: James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and

Departmental Regulation do not apply to this action.

The Service announced that Alton's, Grand Forks', and McCrea's designations terminate on March 31, 1987, and requested applications for official agency designation to provide official services within specified geographic areas in the October 1, 1986, **Federal Register** (51 FR 35015). Applications were to be postmarked by October 31, 1986. Alton, Grand Forks, and McCrea were the only applicants for designation in their respective geographic areas and each applied for designation renewal in the area currently assigned to that agency.

The Service announced the applicant names in the December 1, 1986, **Federal Register** (51 FR 43223) and requested comments on the designation renewal of Alton, Grand Forks, and McCrea. Comments were to be postmarked by January 13, 1987. No comments were received.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), determined that Alton, Grand Forks, and McCrea are able to provide official services in the geographic area for which the Service is renewing their designation. Effective April 1, 1987, and terminating March 30, 1990, Alton, Grand Forks, and McCrea will provide official inspection services in their entire specified geographic areas, previously described in the October 1, **Federal Register.**

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency for the performance of official inspection or Class X or Class Y weighing services and where the agency and one or more of its inspectors or weighers is located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring an inspector or weigher to all locations within its geographic area.

Interested persons may receive a listing of an agency's specified service points by contacting either the Review Branch, Compliance Division, at the address listed above or the agencies at the following addresses:

Alton Grain Inspection Department, 145 West Broadway, Alton, IL 62002

Grand Forks Grain Inspection Department, 1823 State Mill Road, P.O. Box 639, Grand Forks, ND 58201

John R. McCrea Agency, P.O. Box 166, Clinton, IA 52732.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: February 12, 1987.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 87–4254 Filed 2–27–87; 8:45 am]

BILLING CODE 3410-EN-M

Federal Grain Inspection Service

Designation Applicants in the Geographic Area Currently Assigned to the Barton & Gray (KY) and North Dakota (ND) Agencies; Request for Comments

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the geographic area currently assigned to Barton & Gray Grain Inspection Service, Inc. (Barton & Gray) and North Dakota Grain Inspection Service, Inc. (North Dakota).

DATE: Comments to be postmarked on or before April 16, 1987.

ADDRESS: Comments must be submitted, in writing, to Lewis Lebakken, Jr., Information Resources Staff, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 1661 South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within specified geographic areas in the January 2, 1987, **Federal Register** (52 FR 117). Applications were to be postmarked by February 2, 1987. Barton & Gray and North Dakota were the only applicants for designation in their geographic area and each applied for designation renewal in the area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the designation applicants. All comments must be submitted to the Information Resources Staff, Resources Management Division, at the address listed above.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register,** and the applicants will be informed of the decision in writing.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: February 12, 1987.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 87–4255 Filed 2–27–87; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to the Central Iowa (IA) Agency, the State of Maine, and the State of Montana

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of three agencies will terminate, in accordance with the Act, and requests applications from parties, including the agencies currently designated, interested in being designated as the official agency to provide official services in the geographic area currently assigned to the specified agencies. The official agencies are Central Iowa Grain Inspection Service, Inc., Maine Department of Agriculture, and Montana Department of Agriculture.

DATE: Applications to be postmarked on or before April 1, 1987.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and

determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Central Iowa Grain Inspection Service, Inc. (Central Iowa), 125 SE. 18th Street, P.O. Box 1562, Des Moines, IA 50306; Maine Department of Agriculture (Maine), State House, Station #28, Augusta, ME 04333; and Montana Department of Agriculture (Montana), Agriculture/Livestock Building, Capitol Station, Helena, MT 59620, were each designated under the Act as an official agency to provide inspection functions on September 1, 1984.

Each official agency's designation terminates on August 31, 1987. Section 7(g)(1) of the Act states that official agencies' designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Central Iowa in the State of Iowa, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows:

Bounded on the North by U.S. Route 30 east to N44; N44 south to E53; E53 east to U.S. Route 30; U.S. Route 30 east to the Boone County line; the western Boone County line north to E18; E18 east to U.S. Route 169; U.S. Route 169 north to the Boone County line; the northern Boone County line; the western Hamilton County line north to U.S. Route 20; U.S. Route 20 east to R38; R38 north to the Hamilton County line; the northern Hamilton County line east to Interstate 35; Interstate 35 northeast to C55; C55 east to S41; S41 north to State Route 3; State Route 3 east to U.S. Route 65; U.S. Route 65 north to C25; C25 east to S56; S56 north to C23; C23 east to T47; T47 south to C33; C33 east to T64; T64 north to B60; B60 east to U.S. Route 218; U.S. Route 218 south to State Route 3; State Route 3 west to the Butler County line; the eastern Butler County line; the northern Blackhawk County line east to V49;

Bounded on the East by V49 south to State Route 297; State Route 297 south to D38; D38 west to State Route 21; State Route 21 south to State Route 8; State Route 8 west to U.S. Route 63; U.S. Route 63 south to Interstate 80; Interstate 80 east to the Poweshiek County line; the eastern Poweshiek, Mahaska, Monroe, and Appanoose County lines;

Bounded on the South by the southern Appanoose, Wayne, Decatur, Ringgold, and Taylor County lines;

Bounded on the West by the western Taylor County line; the southern Montgomery County line west to State Route 48; State Route 48 north to M47; M47 north to the Montgomery County line; the northern Mongomery County line; the western Cass and Audubon County lines; the northern Audubon County line east to U.S. Route 71; U.S. Route 71 north to U.S. Route 30.

The following locations, outside of the foregoing contiguous geographic area, are presently assigned to Central Iowa and are part of this geographic area assignment:

1. Farmers Co-op Elevator Company, Chapin, Franklin County;
2. Hampton Farmers Co-op Company, Hampton, Franklin County;
3. Nashua Equity Co-op, Nashua, Clinton County;
4. Plainfield Co-op, Plainfield, Bremer County; and
5. Farmers Community Co-op, Inc., Rockwell, Cerro Gordo County.

Exceptions to the described geographic area are the following locations situated inside Central Iowa's area which have been and will continue to be serviced by the following official agencies:

1. Farmers Co-op Elevator, Boxholm, Boone County, to be serviced by A. V. Tischer and Son, Inc.;
2. Juergens Produce and Seed and Farmers Grain and Lumber Company, Carroll, Carroll County, to be serviced by Fremont Grain Inspection Department, Inc.; and
3. Murren Grain, Elliot, Montgomery County; and Hemphill Feed & Grain and Hansen Feed & Grain, Griswold, Cass County, to be serviced by Omaha Grain Inspection Service, Inc.

The geographic area presently assigned to Maine, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows: the entire State of Maine.

The geographic area presently assigned to Montana, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows: the entire State of Montana.

Interested parties, including Central Iowa, Maine, and Montana, are hereby given opportunity to apply for official agency designation to provide the official servcies in each geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in each specified geographic area is for the period beginning September 1, 1987, and ending August 31, 1990. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above, for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: February 12, 1987.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 87–4256 Filed 2–27–87; 8:45 am]

BILLING CODE 3410-EN-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–701]

Electrically-Resistive Monocomponent Toner and "Black Powder" Preparations Therefor From Japan; Initiation of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of electrically-resistive monocomponent toner and "black powder" preparations therefor ("electrically-resistive monocomponent toner") from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, or are materially retarding the establishment of, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before March 20, 1987, and we will make ours on or before July 13, 1987.

EFFECTIVE DATE: March 2, 1987.

FOR FURTHER INFORMATION CONTACT: John Brinkman, Office of Investigations,

Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 377–3965.

SUPPLEMENTARY INFORMATION:

The Petition

On February 3, 1987, we received a petition filed in proper form by the Aunyx Corporation, on behalf of the U.S. industry producing electrically-resistive monocomponent toner. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of electrically-resistive monocomponent toner from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1980, as amended (the Act), and that these imports materially injure, or threaten material injury to, or are materially retarding the establishment of, a U.S.A. industry.

The petitioner based the United States price on price lists of U.S. distributors, less estimated foreign inland freight, ocean freight, duty, U.S. brokerage fees, handling, port charges, insurance, and U.S. inland freight. Petitioner based foreign market value on Japanese ex-factory price lists. Based on a comparsion of United States prices and foreign market value, petitioner alleges dumping margins ranging from 30.94 to 115.23 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on electrically-resistive monocomponent toner from Japan and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of electrically-resistive monocomponent toner from Japan are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by July 13, 1987.

Scope of Investigation

The product covered by this investigation is electrically-resistive monocomponent toner and "black-powder" preparations therefor of a kind used with electrostatic copying machines, currently provided for under item number 408.44 of the *Tariff Schedules of the United States* (TSUS).

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination By ITC

The ITC will determine by March 20, 1987, whether there is a reasonable indication that imports of electrically-resistive monocomponent toner from Japan materially injure, or threaten material injury to, or are materially retarding the establishment of a U.S. industry. If its determination is negative the investigation will terminate; otherwise it will proceed according to the statutory and regulatory procedures.

This notice is published pursuant to section 732(c)(2) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

February 24, 1987.

[FR Doc. 87–4303 Filed 2–27–87; 8:45 am]

BILLING CODE 3510–DS–M

[A–122–020]

Pig Iron From Canada; Final Results of Antidumping Duty Administrative Review and Revocation in Part

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review and revocation in part.

SUMMARY: On January 23, 1987, the Department of Commerce published the preliminary results of its administrative review and intent to revoke in part the antidumping finding on pig iron from Canada. The review covers one manufacturer/exporter of this merchandise and the period July 1, 1985 through August 14, 1986. The review indicates no shipments to the United States by the firm for the period.

We gave interested parties an opportunity to comment on the preliminary results and intent to revoke in part. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results and we hereby revoke the finding for this merchandise manufactured and exported to the United States by Dofasco, Inc.

EFFECTIVE DATE: March 2, 1987.

FOR FURTHER INFORMATION CONTACT: Americo A. Tadeu or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–1130/3601.

SUPPLEMENTARY INFORMATION:

Background

On January 23, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 2572) the preliminary results of its administrative review and intent to revoke in part the antidumping finding on pig iron from Canada (36 FR 1370, July 24, 1971).

We began this review under our old regulations. After the promulgation of our new regulations, one respondent, Dofasco, Inc., requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of pig iron, which is used in steel production and in the iron foundry industry for making iron castings such as pipe, automobile castings, and machine parts. Pig iron is currently classifiable under items 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated.

The review covers one manufacturer and/or exporter of Canadian pig iron and the period July 1, 1985 through August 14, 1986.

Final Results of the Review and Revocation in Part

We invited interested parties to comment on the preliminary results and intent to revoke in part. We received no comments or requests for a hearing. Dofasco, Inc. made all sales at not less than fair value for 5 years and had no shipments for 2 years. Based on our analysis, the final results of our review are unchanged from those presented in the preliminary results. We determine

that no margin exists for Dofasco, Inc. for the period of review.

For the reasons set forth in the preliminary results, we are satisfied that there is no likelihood of resumption of sales at less than fair value by Dofasco, Inc. Accordingly, we revoke in part the antidumping finding on pig iron from Canada. This partial revocation applies to all unliquidated entries of this merchandise manufactured and exported by Dofasco, Inc. entered, or withdrawn from warehouse, for consumption on or after August 14, 1986. The Department shall instruct the Customs Service not to assess antidumping duties on all appropriate entries.

Further, as provided for by § 353.48(b) of the Commerce Regulations, for any shipments from the four remaining known manufacturers/exporters of Canadian pig iron not covered by this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms (50 FR 11003, March 19, 1985). For any entries from a new exporter of Canadian pig iron not covered in this or prior reviews, whose first shipments occurred after August 14, 1986, and who is unrelated to Dofasco, Inc. or any previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Canadian pig iron entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and shall remain in effect until publication of the final results of the next administrative review.

This administrative review, revocation in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53a, and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54).

Dated: February 26, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-4302 Filed 2-27-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-104]

Strontium Nitrate From Italy; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on strontium nitrate from Italy. The review covers one manufacturer/exporter of this merchandise and the period June 1, 1983 through May 14, 1984. The review indicates the existence of no dumping margins for the firm during the period.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 2, 1987.

FOR FURTHER INFORMATION CONTACT: Richard P. Bruno or J. Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 34385) the final results of its last administrative review of the antidumping duty order on strontium nitrate from Italy (46 FR 32864, June 25, 1981). We began the current review of the order under our old regulations. After the promulgation of our new regulations, the respondent requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We published a notice of initiation of the antidumping duty administrative review on February 12, 1986 (51 FR 5219). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of strontium nitrate, a chemical compound $Sr(NO_3)_2$, currently classifiable under item 421.7400 of the Tariff Schedules of the United States Annotated.

The review covers one manufacturer/exporter of Italian strontium nitrate, Societa Bario e Derivati S.p.A. ("SABED"), and the period June 1, 1983 through May 14, 1984.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act, since all sales were made to unrelated purchasers in the United States prior to importation. Purchase price was based on the packed ex-factory price to an unrelated purchaser in the United States. No adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used third-country (Swiss) prices, as defined in section 773 of the Tariff Act, since insufficient quantities of such or similar merchandise were sold in the home market during the period to provide a basis for comparison. Third-country price was based on the packed delivered price to unrelated purchasers in Switzerland. We made adjustments, where applicable, for inland freight, insurance, customs fees, and differences in credit expenses, packing costs, and physical characteristics due to "caked merchandise". No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that no dumping margins exist for SABED for the period June 1, 1983 through May 14, 1984.

Interested parties may submit written comments on these preliminary results within 21 days of the date of publication of this notice and may request disclosure and/or a hearing within 5 days of the date of publication. Any hearing, if requested, will be held 21 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

Further, as provided by section 751(a)(1) of the Tariff Act, since there was no margin the Department shall not require a cash deposit of estimated dumping duties for SABED.

For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after May 14, 1984 and who is unrelated to the reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Italian strontium nitrate entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1))

and section 353.53a of the Commerce Regulations (19 CFR 353.53a).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-4301 Filed 2-27-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-301-003]

Roses and Other Cut Flowers From Colombia; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY:

The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on roses and other cut flowers from Colombia. The review covers the period July 1, 1983 through December 31, 1985 and fourteen programs.

As a result of the review, the Department has preliminarily determined that Colombian cut flower exporters complied with the terms of the suspension agreement that as in effect during the review period. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: March 2, 1987.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Susan Silver, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 15, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 44930) the final results of its last administrative review of the agreement suspending the countervailing duty investigation on roses and other cut flowers from Colombia (48 FR 2158, January 18, 1983). On January 22, 1986, we received requests in accordance with section 355.10 of the Commerce Regulations for an administrative review of the agreement from three domestic interested parties, Roses Inc., the California Floral Trade Council, and the Floral Trade Council. On January 31, 1986, we received review requests from the Asociacion Colombiana de Exportadores de Flores and the Association of Floral Importers of Florida. We published the initiation of the review of February 18, 1986 (51 FR 5751). The Department has now conducted that review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Colombian roses and other fresh cut flowers (excluding miniature carnations), and bouquets, wreaths, sprays, or similar articles made from such flowers or other fresh plant parts. Roses are currently classifiable under item 192.1800, and other fresh cut flowers (excluding miniature carnations) under item 192.2100 of the Tariff schedules of the United States annotated.

The review covers the period July 1, 1983 through December 31, 1985 and fourteen programs: (1) CAT/CERT; (2) air freight reductions; (3) Resolutions 59 and 22; (4) Decree 2366; (5) research and development fund; (6) duty and tax exemptions under Plan Vallejo; (7) FFA; (8) FFI; (9) FCE; (10) FONADE; (11) Resolution 42; (12) benefits to Free Industrial Zones; (13) preferential export insurance; and (14) countertrade.

Revised Suspension Agreement

In our last administrative review, we found that Colombian cut flower exporters used working capital financing under Resolution 59 and fixed asset financing under Decree 2366, programs that we determine to be countervailable in the suspended countervailing duty investigation on certain textile mill products and apparel from Colombia (50 FR 9863, March 12, 1985) ("the textiles suspension of investigation"). Therefore, we revised the suspension agreement to include any programs that we consider countervailable or potentially countervailable, including Resolution 59 loans and Decree 2366 loans. The revised agreement did not go into effect until December 15, 1986. Therefore, the current administrative review concerns compliance with the original agreement that was in effect during the period of review.

Analysis of Programs

(1) CAT/CERT

The Government of Colombia provided payments to exporters to cut flowers in the form of negotiable Tax Credit Certificates ("CAT") that could be used for the payment of various taxes or sold on the stock exchange at a discount. Rebates were calculated as a percentage of (1) the value of the exported product attributable to the domestic value-added content, an (2) imported inputs on which duties have been paid. We preliminarily determine that Colombian cut flower exporters did not receive CAT payments on exports of this merchandise to the United States during the period of review.

On April 1, 1984, the Colombian government established in Law 48/83 the Tax Rebate Certificate ("CERT"), which replaces the CAT. The CERT is intended to rebate all or part of the indirect taxes paid by exporters. Like the CAT, the CERT is freely negotiable on the stock market and can be used for paying a variety of taxes.

The Banco de la Republica, Colombia's central bank, certified to the Department on February 19, 1986 that it has been withholding CAT or CERT payments from signatories to the agreement on shipments to the United States and Puerto Rico since January 13, 1983. Therefore, we preliminarily determine that exporters did not receive CAT or CERT payments on shipments of this merchandise to the United States during the period of review.

(2) Air Freight Reductions

The Civil Aeronautics Board (DAAC), an agency of the Colombian government, established in Resolution 5833 minimum and maximum air freight rates for a variety of products, including cut flowers. The maximum DAAC rate for cut flowers is considerably lower than the air freight rates for other products carried over the same routes, thereby raising the possibility that the Colombian government is attempting to suppress cut flower freight rates. Section D(3) of the suspension agreement states that the Department may consider rescinding the agreement if the air freight rates paid by cut flower exporters approach the government-mandated maximum rates set by the DAAC. If we found such rates, we might consider them indicative of government control rather than the result of competitive forces.

Pursuant to Resolution 5833, updated by Resolution 6333, the minimum and maximum air freight rates in effect during the review period for fresh cut flowers were US $0.45 and $0.60 per kilogram, respectively, for flowers shipped from Colombia to the United States. We found that most rates negotiated between cut flower exporters and private air-freight companies were lower than the DAAC maximium rates during the period of review. In a few cases, the rates exceeded the maximum rates because of a charge for cooling

services. This charge is not controlled by the DAAC. Generally, we find that freight rates for cut flowers are a function of competition in the air freight market and not the result of government suppression of those rates. We therefore preliminarily determine that this program provides no benefit and no reason to consider rescinding the suspension agreement.

(3) Resolutions 59 and 22

Resolution 59, which was passed by the Monetary Board of Colombia on August 30, 1972, and Resolution 22, which was passed by the Board of Directors of the Export Promotion Fund ("PROEXPO") on December 13, 1984, provide working capital financing at preferential rates to firms that manufacture, store, or sell products destined for export. All industries are eligible, except producers of coffee, petroleum, and petroleum by-products. Resolution 59 and Resolution 22 loans are administered by PROEXPO, an agency of the Colombian government. Resolution 59 loans are for 180 days and the interest is paid quarterly, in advance. Resolution 22 loans are for periods up to one year with interest paid quarterly, in advance. In February 1986, the maximum annual interest rate was 22 percent. Colombian exporters of cut flowers received working capital loans under Resolutions 59 and 22 during the period of review.

For a benchmark rate, we used the short-term interest rate available from the Fund for Agricultural Financing ("FFA") and the Agrarian Fund, the major sources of financing to agriculture. The rate for both funds in February 1986, the most recent information available, was 22.5 percent. On this basis, we preliminarily determine the current interest differential to be 0.5 percent.

Since we determined Resolution 59 to be counteravailable in the textiles suspension of investigations we included it in the revised suspension agreement of December 15, 1986. The revised agreement requires Colombian cut flower exporters not to apply for, or receive, any short-term export financing from PROEXPO, including Resolution 59 and 22 loans. The revised agreement requires the exporters to repay any such outstanding loans immediately or renegotiate the interest rates to rates that are at or above the most recent short-term benchmark interest rate determined by the Department.

(4) Decree 2366

Under Decree 2366, PROEXPO provides exporters with long-term financing for capital investment at preferential rates. The amount of the loan cannot exceed 100 million pesos, the maximum term is five years, and the annual interest rate is 18 percent. Exporters of cut flowers used this program during the period of review.

There are no long-term loans available from the commercial banking system in Colombia. For a benchmark, we used the long-term interest rate of 21 percent available from the FFA in February 1986, the most recent information available. On this basis, we preliminarily determine the current interest differential to be 3 percent.

Since we determined this program to be countervailable in the textiles suspension of investigation, we included it in the revised suspension agreement of December 15, 1986. The revised agreement requires Colombian cut flower exporters not to apply for, or receive, any long-term financing provided by PROEXPO, including Decree 2366 loans. The revised agreement requires the exporters to repay any such outstanding loans immediately or renegotiate the interest rates to rates that are at or above the most recent long-term benchmark interest rate determined by the Department.

(5) Research and Development Fund

Petitioners alleged that a portion of the CAT/CERT rebates earned on exports to countries other than the United States was being diverted into a special fund for research and development and the promotion of flower consumption in the United States.

The Colombian government states that the plan for this fund was never put into effect, and there were no research and development programs available for the floriculture industry during the review period. On July 23, 1986, PROEXPO issued Resolution No. 10, which opened a special account in the Banco de la Republica for the diversification and development of the cultivation of flowers and vegetables for external markets. The Resolution requires that any funds expended under this program be disbursed in a manner consistent with the suspension agreement.

On this basis, we preliminarily determine that exporters did not use this program during the period of review.

(6) Duty and Tax Exemptions under Plan Vallejo

The Plan Vallejo exempts exporters from import duties on imported raw materials, intermediate products, and capital goods used to produce exported products. The exemption of customs duties and indirect taxes on imports of physically incorporated inputs is not countervailable. However, exemptions on non-physically incorporated inputs, such as imported capital goods, are countervailable when the exemption is conditioned upon exportation.

We found that 14 companies under review received exemptions on machinery used for fumigation, irrigation, and cooling devices. Since we preliminarily determined this program to be countervailable in the preliminary affirmative countervailing duty determination on miniature carnations from Colombia (51 FR 37934, October 27, 1986), we included it in the revised suspension agreement of December 15, 1986 and required that Colombian cut flower exporters not apply for or receive any benefits from this program.

(7) Other Programs

We examined the following programs and preliminarily determine that exporters of cut flowers did not use them during the period of review:

(A) Fund for Agricultural Financing ("FFA");

(B) Fund for Industrial Financing ("FFI");

(C) Capital Formation Fund ("FCE");

(D) Fund for National Economic Development ("FONADE");

(E) Resolution 42 Loans;

(F) Benefits to Free Industrial Zones;

(G) Preferential Export Insurance; and

(H) Countertrade.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the signatories to the suspension agreement complied with the terms of the suspension agreement that was in effect during the review period. The agreement can remain in force only so long as shipments covered by it account for at least 85 percent of exports of such merchandise to the United States. Our information indicates that the signatories comprised over 87 percent of exports of the merchandise to the United States during the period of review.

Interested parties may submit written comments on these preliminary results and may request disclosure and/or a hearing within 14 days of the date of publication of this notice. Any hearing, if requested, will be held on the 14th day after publication, or the following workday. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of any issues

raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: February 20, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-4309 Filed 2-27-87; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

February 20, 1987.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first *12* months is estimated at *$165,000* for the project performance of *07/01/87* to *06/30/88*. The MBDC will operate in the *Savannah, Georgia* Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04-10-87005-01* for the *Savannah, Georgia* SMSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance regarding minority business.

Application will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organization; the resources available to the firm in providing management and technical assistance, the firm's proposed approach to performing the work requirements included the application; and the firm's estimated cost for providing such assistance. It is advisable that applications have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing date: The closing date for applications is *March 31, 1987.* Applications must be postmarked on or before *March 31, 1987.*

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street NE., Suite 505, Atlanta, Georgia 30309, (404) 347-4091

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

Dated: February 20, 1987.

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia, Monday, March 16, 1987, at 9:00 a.m.

[FR Doc. 87-4247 Filed 2-27-87; 8:45 am]

BILLING CODE 3510-21-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Prepare Environmental Impact Statement; Mather Air Force Base, CA

The United States Air Force, Department of Defense, will prepare an Environmental Impact Statement (EIS) for use in decision-making regarding the proposed closure of Mather AFB, CA in Fiscal Year 1991, the relocation of Undergraduate Navigator Training (UNT) to Castle AFB, CA and the relocation of the 940th Air Refueling Group (ARG) to McClellan AFB, CA. All remaining functins at Mather AFB would be deactivated, if appropriate, and the property excessed in accordance with provisions of Pub. L., Federal property disposal regulations and Executive Order 12512.

On January 5, 1987 the Secretary of the Air Force announced plans to conduct a study to determine the impact of closing Mather AFB and relocating or deactivating its units.

The EIS will also analyze the no action alternative for closing Mather AFB. Randolph AFB, TX will be considered as an alternative for the relocation of UNT to Castle AFB. Alternatives for the relocation of the 940th ARG to McClellan AFB are to move to Beale AFB or retain the 940th at Mather AFB as a tenant, should the community decide to develop a public airport.

The Air Force is planning to conduct a series of scoping meetings to determine the nature, extent and scope of the issues and concerns that should be addressed in the EIS related to the proposed action. Notice of the time and place of the planned scoping meetings will be made available to public officials and announced in the news media in the areas where the meetings will be held.

To assure the Air Force will have sufficient time to consider public inputs on issues to be included in the development of an EIS, comments should be forwarded to the addressee listed below by April 3, 1987.

For further information concerning the Mather AFB closure proposal and the EIS activities, contact: HQ ATC/DEE, Lt. Col. Pellek, Randolph Air Force Base, TX 78148, (512) 652-3302.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-4231 Filed 2-27-87; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

February 19, 1987.

The USAF Scientific Advisory Board Ad Hoc Committee on Space-Based Radar will meet at the Pentagon, Room 5D982, on March 24-25, 1987, from 8:00 a.m. to 5:00 p.m. each day.

The purpose of this meeting is to receive briefings on and to discuss requirements for a space-based radar system. These meetings are being held to prepare Board members to advise senior Air Force personnel on appropriate means of achieving stated requirements.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87–4196 Filed 2–27–87; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Intent to Repay to the Kentucky State Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA), the Secretary of Education (Secretary) intends to repay to a State educational agency (SEA), the Kentucky State Department of Education, an amount equal to 75 percent of the funds recovered by the Department of Education as a result of a final audit determination. This notice describes the SEA's plan, submitted on behalf of 49 local educational agencies (LEAs), for the use of the repaid funds and the terms and conditions under which the Secretary intends to make these funds available and invites comments on the proposed grantback.

DATE: All written comments must be received on or before April 1, 1987.

ADDRESS: All written comments should be submitted to Dr. James Spillane, Director, Division of Program Support, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 2047, MS–6276), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Dr. James Spillane. Telephone: (202) 245–2465.

SUPPLEMENTARY INFORMATION:

A. Background

In August 1985, the Department of Education recovered $338,034 in satisfaction of an audit, covering the period July 1, 1967 through June 30, 1974. The auditors examined the SEA's administration of Title I of the Elementary and Secondary Education Act of 1965 (Title I) to determine whether the funds had been expended in a manner consistent with the governing statute and regulations.

The auditors found that the SEA had approved Title I programs for fiscal year 1974 that violated the statutory and regulatory prohibition on supplanting State and local expenditures. Under the statute and regulations, Title I funds had to be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, have been made available from non-Federal sources for the education of the participating Title I children, and in no case to supplant such funds from non-Federal sources (20 U.S.C. 241e(a)(3)(B) (1976) and 45 CFR 116.17(h) (1974)).

B. Authority for Awarding a Grantback

Section 456(a) of GEPA, 20 U.S.C. 1234e(a), provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called "grantback" arrangement if the Secretary determines that the—

(1) Practices and procedures of the SEA or LEA that resulted in the audit determination have been corrected, and that the SEA or LEA is, in all other respects, in compliance with the requirements of the applicable program;

(2) SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exceptions; and

(3) Use of funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purposes of the program under which the funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Agreement

Pursuant to section 456(a)(2) of GEPA, the SEA has applied for a grantback of $253,525 and has submitted a plan on behalf of 49 LEAs to use the grantback funds to meet the special educational needs of educationally deprived children in programs administered under Chapter 1 of the Education Consolidation and Improvement Act of 1981 (Chapter 1) (20 U.S.C. 3801 *et seq.*). The final determination included audit exceptions in 50 LEAs, two of which have since merged. Since Chapter 1 has superseded Title I, the SEA's proposal reflects the requirements in Chapter 1—a program, similar to Title I, designed to serve educationally deprived children in low-income areas.

The SEA's plan proposes that the LEAs will use the grantback funds to supplement their regular Chapter 1 programs during school year 1986–87. Most of the 49 districts will use the grantback funds to purchase instructional equipment and supplies needed for their regular Chapter 1 reading and mathematics classes. Nine of the LEAs will use a portion of the grantback funds to pay, in part, salaries of Chapter 1 teachers in the regular Chapter 1 programs.

Eligible Children in private schools will receive services equitable to those provided to eligible children in public schools.

D. The Secretary's Determinations

The Secretary has carefully reviewed the plan submitted by the SEA. Based upon that review, the Secretary has determined that the conditions under section 456 of GEPA have been met.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

E. Notice of the Secretary's Intent to Eneter Into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the Kentucky SEA under a grantback arrangement. The grantback award would be in the amount of $253,525, which is 75 percent—the maximum percentage authorized by the statute—of the funds recovered by the Department as a result of the audit.

F. Terms and Conditions Under Which Payments Under A Grantback Arrangement Will Be Made

The SEA and LEAs agree to comply with the following terms and conditions under which payment under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the SEA submitted and any amendments to that plan that are approved in advance by the Secretary; and

(c) The budgets that were submitted with the plan and any amendments to the budgets that are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be obligated by September 30, 1987, in accordance with section 456(c) of GEPA and the SEA's plan.

(3) The SEA, on behalf of the LEAs, will, not later than January 1, 1988, submit a report to the Secretary which—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budgets, and

(b) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

(Catalog of Federal Domestic Assistance Number 84.010, Educationally Deprived Children—Local Educational Agencies)

Dated: February 24, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87-4289 Filed 2-27-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA87-8-20-000 and 001]

Algonquin Gas Transmission Co.; Proposed Changes in Gas Tariff

February 24, 1987.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on February 18, 1987, tendered for filing Nineteenth Revised Sheet No. 203 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin states that such tariff sheet is being filed to reflect in Algonquin's Rate Schedule F-2 changes in the underlying rates of Consolidated Gas Transmission Corporation ("Consolidated"), as reflected in Consolidated's January 30, 1987 PGA filing proposed to be effective March 1, 1987

Algonquin requests that the Commission accept Nineteenth Revised Sheet No. 203 to be effective March 1, 1987 to coincide with the proposed effective date of Consolidated's rate change.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 2, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-4178 Filed 2-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-16-002]

National Fuel Gas Supply Corp.; Proposed Tariff Changes

February 24, 1987.

Take notice that on February 18, 1987, National Fuel Gas Supply Corporation ("National") tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Eighth Revised Sheet No. 4 to be effective February 1, 1987, in compliance with Commission Order dated January 29, 1987, in Docket No. TA87-2-16-000.

National states the purpose of Substitute Eighth Revised Sheet No. 4 is to reflect a net decrease of 58.98 cents per Dth. This change consists of a decrease in current purchase gas cost of 44.63 cents per Dth, and an increase in the purchase gas cost surcharge credit adjustment of 14.35 cents per Dth.

National states, that copies of this filing were served upon the company's jurisdictional customers and the regulatory commissions of the States of New York, Ohio, Pennsylvania, Delaware, and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before March 2, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-4179 Filed 2-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-92-006]

Northwest Pipeline Corp.; Tariff Filing

February 24, 1987.

Take notice that on February 17, 1987, Northwest Pipeline Corporation ("Northwest"), P.O. Box 8900, Salt Lake City, Utah 84108-0900, tendered for filing the following tariff sheets:

First Revised Volume No. 1

Thirty-Second Revised Sheet No. 10
Thirty-Fourth Revised Sheet No. 10

Original Volume No. 1-A

Eighth Revised Sheet No. 201

Northwest states that the above-listed tariff sheets are submitted in compliance with Ordering Paragraph (C) of the "Order Approving Contested Offer of Settlement Subject to Conditions" issued February 4, 1987 in the above-captioned docket. Northwest further states that the tariff sheets implement a $3.7 million decrease in costs allocated to sales and storage services, as directed by the Commission in conjunction with its approval of the settlement transportation rates. It is further stated that the tariff sheets reflect a previously-authorized increase in the Gas Research Institute ("GRI") surcharge.

Northwest proposes that Thirty-Second Revised Sheet No. 10 (Volume No. 1), which reflects the sales and storage rate decreases, be effective from February 8, 1987 (the "gas day" on which Northwest commenced non-grandfathered transportation services under the Settlement pursuant to section 311 of the Natural Gas Policy Act) through March 31, 1987 (the date on which the concurrently filed Thirty-Third Revised Sheet No. 10, which reflects both the sales and storage rate decreases and the purchased gas adjustment changes in Docket No.

TA87–3–37–000, takes effect). Northwest further proposes that Thirty-Fourth Revised Sheet No. 10, which returns the base sales and storage rates to their previous levels, be effective May 1, 1987 (the date on which the settlement transportation rates terminate). Finally, Northwest proposes that Eighth Revised Sheet No. 201 (Volume No. 1–A), which reflects the GRI surcharge, be effective February 8, 1987. Northwest requests waiver of the Commission's regulations to the extent necessary to permit filing and acceptance of the above-described tariff sheets.

Northwest states that a copy of its filing has been served upon all parties of record in this docket as well as upon all jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests should be filed on or before March 2, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–4177 Filed 2–27–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85–803–002]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 24, 1987.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on February 13, 1987, tendered for filing to be a part of its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets, to become effective as set forth on the sheets:

Fourth Revised Volume No. 1

Second Substitute Revised Eighty-first Revised Sheet No. 14
Substitute Second Revised Eighty-first Revised Sheet No. 14
Substitute Eighty-second Revised Sheet No. 14
Substitute Second Revised Eighty-second Revised Sheet No. 14
Substitute Eighty-third Revised Sheet No. 14
Revised Eighty-third Revised Sheet No. 14

Original Volume No. 2

First Revised Sheet No. 1166
First Revised Sheet No. 1200
First Revised Sheet No. 1216

Texas Eastern states that this filing is being made in accordance with its certificate applications and Commission orders which require the company to file revised tariff sheets in the event the actual costs of facilities and other costs incurred in connection with providing service pursuant to Rate Schedules SS–II, SS–III, X–127, X–129 and X–130 vary from the estimates set forth in the certificate applications.

Copies of this filing were served upon Texas Eastern's jurisdictional customers, interested state commissions and affected parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 2, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–4180 Filed 2–27–87; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OW–FRL 3162–6]

Water Quality Criteria; Availability of Document

AGENCY: Environmental Protection Agency.

ACTION: Notice of final ambient water quality criteria document.

SUMMARY: EPA announces the availability and provides a summary of the final ambient water quality criteria document for zinc. These criteria are published pursuant to section 304(a)(1) of the Clean Water Act. These water quality criteria may form the basis for enforceable standards

Availability of Documents

This notice contains: (1) A summary of the zinc document containing final ambient water quality criteria for the protection of aquatic organisms and their uses, and (2) responses to public comments. Copies of the complete criteria document may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161 (phone number ((703) 487–4650). The NTIS publication order number for the document is published below. This document is also available for public inspection and copying during normal business hours at: Public Information Reference Unit, U.S. Environmental Protection Agency, Room 2404 (rear), 401 M Street SW., Washington, DC 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services. Copies of this document are also available for review in the EPA Regional Office libraries. Copies of the document are *not* available from the EPA office listed below. Requests sent to that office will be forwarded to NTIS or returned to the sender.

1. Ambient Water Quality Criteria for Zinc—EPA 440–5–87–003; NTIS Number PB 87153581.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Gostomski, Criteria and Standards Division (WH–585), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475–7321.

SUPPLEMENTARY INFORMATION:

Background

Section 304(a)(1) of the Clean Water Act (33 U.S.C. 1314(a)(1)) requires EPA to publish and periodically update ambient water quality criteria. These criteria are to reflect the latest scientific knowledge on the identifiable effects of pollutants on public health and welfare, aquatic life, and recreation.

EPA has periodically issued ambient water quality criteria, beginning in 1973 with publication of the "Blue Book" (Water Quality Criteria 1972). In 1976, the "Red Book" (Quality Criteria for Water) was published. On November 28, 1980 (45 FR 79318), and February 15, 1984 (49 FR 5831), EPA announced the publication of 65 individual ambient water quality criteria documents for pollutants listed as toxic under section 307(a)(1) of the Clean Water Act.

EPA issued nine individual water quality criteria documents on July 29, 1985 (50 FR 30784) which updated or revised criteria previously published in the "Red Book" or in the 1980 water quality criteria documents. A revised

version of the National Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses was announced at the same time. A bacteriological ambient water quality criteria document was published on March 7, 1986 (51 FR 8012). A water quality criteria document for dissolved oxygen was published on June 24, 1986 (51 FR 22978). All of the publications cited above were summarized in "Quality Criteria for Water, 1986" which was released by the Office of Water Regulations and Standards on May 1, 1986. Final water quality criteria documents for chloropyrifos, nickel, pentachlorophenol, parathion, and toxaphene were issued by EPA on December 3, 1986 (51 FR 53665).

Today EPA is announcing the availability of a final water quality criteria document for zinc which updates and revises criteria previously published in the 1980 ambient water quality criteria document. A draft criteria document for zinc was made available for public comment on May 28, 1986 (51 FR 19269). These final criteria have been derived after consideration of all comments received.

Dated: February 4, 1987.

Lawrence J. Jensen,

Assistant Administrator for Water.

Appendix A—Summary of Water Quality Criteria for Zinc

Freshwater aquatic life. The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration (in ug/L) of zinc does not exceed the numerical value given by $e^{(0.8473[\ln(\text{hardness})]+0.7614)}$ more than once every three years on the average, and if the one-hour average concentration (in ug/L) does not exceed the numerical value given by $e^{(0.8473[\ln(\text{hardness})]+0.8604)}$ more than once every three years on the average. For example, at hardnesses of 50, 100, and 200 mg/L $CaCO_3$ the four-day average concentrations of zinc are 59, 110 and 190 ug/L, respectively, and the one-hour average concentrations are 65, 120, and 210 ug/L. If the striped bass is as sensitive as some data indicate, it will not be protected by this criterion.

Saltwater Aquatic Life. The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, saltwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of zinc does not exceed 86 ug/L more than once every three years on the average, and if the one-hour average concentration does not exceed 95 ug/L more than once every three years on the average.

"Acid-soluble" is probably the best measurement at present for expressing criteria for metals and the criteria for zinc were developed on this basis. However, at this time, no EPA approved method for such a measurement is available to implement criteria for metals through the regulatory programs of the Agency and the States. The Agency is considering development and approval of a method for a measurement such as "acid-soluble." Until one is approved, however, EPA recommends applying criteria for metals using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be measured because the total recoverable method cannot distinguish between individual oxidation states, and (2) in some cases these criteria might be overly protective when based on the total recoverable method.

Three years is the Agency's best scientific judgment of the average amount of time aquatic ecosystems should be provided between excursions. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific allowed excursion frequencies may be established if adequate justification is provided.

Use of criteria for developing water quality-based permit limits and for designing waste treatment facilities requires selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other considerations might make their use impractical, in which case one must rely on a steady-state model.

Appendix B—Response to Public Comments on the Draft Criteria Document for Zinc

Introduction—Some "comments" listed below are summaries of individual comments that expressed similar points of view. Most comments that were listed and responded to in the **Federal Register** on July 29, 1985 (50 FR 39784) concerning the National Guidelines will not be dealt with again here.

1. *Comment.* Water quality criteria should be defined in terms of the designated use of the stream segment in question.

Response. As explained in the "Water Quality Standards Handbook," States must designate uses for a water body or segment thereof and then adopt water quality standards to protect those uses.

2. *Comment.* The guideline methodology contains a built in bias for selection of the lowest individual species toxicity value as the sole basis for a criterion.

Response. The guidelines do not base criteria on the sensitivity of the most sensitive individual species. Whether criteria are below, equal to, or above the data for the most sensitive species depends mostly on the number of species for which data are available. In particular for zinc, three species (two freshwater and one saltwater) have mean acute values below the Final Acute Values. In addition, three of the thirteen chronic values are below the freshwater Final Chronic Value.

3. *Comment.* The criteria cannot be easily compared with measurements on grab samples from streams.

Response. Individual grab samples do not provide much information about the quality of a water body. Replicated composite and grab samples provide more information. Cursory monitoring is generally used to identify situations where more extensive monitoring should be considered.

4. *Comment.* The criteria, once issued, should specify duration. *Response.* The criteria do specify durations of one hour and four days.

5. *Comment.* EPA's use of three years as the average amount of time aquatic ecosystems should be provided between excursions is simply an arbitrary number, which is no more justified than any other number.

Response. The derivation of "three years" is explained in Appendix D of the Technical Support Document for Water Quality-based Toxics Control (U.S. EPA 1985). Although it might seem that the number ought to be related to the magnitude, duration, and extent of the excursion, there is no way to implement any number other than an average. If adequately justified, a site-specific frequency of allowed excursions may be established to take into account the characteristics of a specific discharge and/or body of water.

6. *Comment.* EPA has not provided statements of confidence for the proposed criteria, although such statements of confidence are necessary for effective use of criteria for regulatory purposes by States.

Response. Although confidence limits on criteria are desirable, states do not need them to be able to use criteria for developing water quality-based permit limits or for designing waste treatment facilities.

7. *Comment.* Data obtained from tests conducted using unidentified species should not be used.

Response. Because the values used in the calculation of the Final Acute Value are Genus Mean Acute Values, for the purposes of tables 1, 2, and 3, it is only necessary to identify organisms to genus, and it is not necessary to identify the species, although this is certainly desirable. Identification to

genus and species is desirable, but not necessary for Tables 4, 5, and 6.

8. *Comment.* The heading "aquatic plants" should be changed to "phytoplankton" when no data are available for aquatic macrophytes.

Response. The heading is generic and indicates that whatever appropriate data are available for any aquatic plants will be included in the table.

9. *Comment.* Rather than considering zinc as a hazardous toxic substance, we may best be served by considering acceptable and economic ways to increase the content of zinc in the U.S. diet in order to obtain the maximum benefit from this vital trace element.

Response. Aquatic life criteria are in tended to prevent unacceptable effects on aquatic organisms and their uses. If the content of zinc in the U.S. diet does need to be increased, it ought to be possible to cause the increase without adversely affecting aquatic life.

10. *Comment.* We question EPA's conclusion that "all concentrations reported herein . . . are expected to be essentially equivalent to acid-soluble zinc."

Response. Nearly all the concentrations mentioned in the criteria document are from toxicity tests in which zinc chloride or zinc sulfate was added to dilution water. In such cases, the "total recoverable" and "acid-soluble" measurements are expected to produce the same results within experimental error.

11. *Comment.* I rather doubt if much carbonate is going to be found in any water with a pH of 1.5.

Response. Weber and Stumm (1963) indicate that at pH=1.5 the "carbonate system" exists as carbonic acid.

12. *Comment.* For the purposes of ambient water quality criteria and analysis, soluble zinc only should be considered.

Response. Results of very few toxicity tests are reported in terms of "soluble zinc" and so it is not possible to derive criteria for soluble zinc. More importantly, the analytical method used to measure zinc in ambient water will also be used to analyze most effluents. Not measuring zinc that is precipitated as hydroxide and/or carbonate in effluents cannot be considered adequately protective because such precipitates can dissolve when the effluent is mixed with receiving water. Although "acid-soluble" might be overprotective in some cases, usually it will not be as overprotective as "total recoverable." In addition, with adequate justification, site-specific criteria can be higher than national criteria.

13. *Comment.* The toxicity of zinc is greatly affected by such factors as hardness, dissolved oxygen, temperature, and pH.

Response. The data available concerning such relationships are mentioned in the criteria document. When enough data are available to indicate that the same quantitative relationship exists for a variety of species, the criterion is related to that factor, as it is for hardness with zinc. Site-specific criteria may be derived to account for such factors in other cases.

14. *Comment.* The inclusion in Table 1 for zinc of data generated in Lake Superior water and exclusion of data generated in river water by Carlson and Roush (1985) is irrational.

Response. The results of the tests conducted by Carlson and Roush (1985) in river water were put in Table 6 rather than Table 1 because of the high concentration of suspended solids in the river water, as noted in Table 6.

15. *Comment.* The results of the tests conducted with *Ceriodaphnia* spp. should not be in Table 1 because the organisms were fed during the tests.

Response. In most cases, as stated in the Guidelines, data from acute tests are not included in Table 1 if the organisms were fed during the tests because the food will often unnecessarily lower the concentration of dissolved oxygen and detoxify the test material. However, many cladocerans can survive, grow, and reproduce acceptably at low concentrations of dissolved oxygen and, because of their short generation time, it does not seem appropriate to maintain young *Ceriodaphnia* spp. without food for 48 hours.

16. *Comment.* The freshwater criterion for zinc is largely driven by the extreme acute value for *Ceriodaphnia reticulata*, which is a questionable value because the nutritional requirements and other aspects of the procedure for use of this species are not well developed.

Response. Although this species has been used in toxicity tests for only a few years, the acute values seem to be reproducible and valid.

17. *Comment.* For zinc the two freshwater species in the genus *Asellus* should be combined for the calculation of a GMAV.

Response. EPA agrees.

18. Comment. LC50s that are means of results of several tests should not be used.

Response. It is preferable to have the results of individual tests, but if they are not available, means are useful. In addition, sometimes LC50s are reported as results of separate tests when in fact they were from replicate chambers in the same test. Such distinctions rarely have a substantial impact on the mean acute value for a species.

19. *Comment.* Acute values should not be included in Table 1 for zinc if hardness was not reported.

Response. Although acute values cannot be used in the calculation of SMAVs for zinc if hardness was not reported, such values are included in Table 1, if the tests were otherwise acceptable, to provide a complete listing of acceptable data.

20. *Comment.* The LC50 of 670 μg/L reported by Spry and Wood (1984) from an acute toxicity test with rainbow trout on zinc at pH=6.0 should be used.

Response. Because the pH range specified in the "Red Book" (U.S. EPA, 1976, Quality Criteria for Water, EPA–440/9–76–023, National Technical Information Service, Springfield, VA. pp. 178–182) for freshwater aquatic life is 6.5 to 9.0, tests conducted in dilution waters with pH outside this range are rarely used in the derivation of freshwater criteria.

21. *Comment.* The data reported by Hughes (1968, 1973) should not be used because the test organisms were not acclimated adequately.

Response. EPA agrees.

22. *Comment.* The two freshwater species in the genus *Morone* should be treated as two different genera for the purpose of calculating the freshwater FAV for zinc because their acute values are so different.

Response. Rehwoldt et al. (1971, 1972) reported high LC50s for white perch and striped bass, whereas both Hughes (1970, 1973) and Palawski et al. (1985) reported low LC50s for striped bass. Although the values reported by Hughes are not used because of inadequate acclimation, they do support the probability that the values reported by Rehwoldt are high for both species.

Thus only the values reported by Palawski et al. will be used for calculating the GMAV for *Morone.*

23. *Comment.* The saltwater acute value for the quahog clam should not be used because the test was static and dissolved oxygen concentrations were not mentioned in the publication, which likely resulted in stressed larvae that were overly sensitive to zinc.

Response. It is not likely that either the test organisms or the test material reduced the concentration of dissolved oxygen enough to stress the larvae.

24. *Comment.* Should the slope for acute toxicity vs hardness for zinc be calculated using only results from "flow-through, measured" tests?

Response. The Guidelines do not specify the use of only "flow-through, measured" acute tests, when one or more is available for a species (as is specified for the calculation of an SMAV) because (a) more data are needed to calculate a slope than an SMAV, (b) many of the available values are not from "flow-through, measured" tests, and (c) the slopes obtained using values from different kinds of tests seem to be in reasonable agreement.

25. *Comment.* A value from a static acute test should not be used in the calculation of a SMAV for zinc when a value from a "flow-through, measured" test is available.

Response. EPA agrees.

26. *Comment.* The EC50 of 203.9 μg/L for *Crassostrea gigas* (Nelson 1972) should be 285.2 μg/L, calculated using the binomial test.

Response. ERL, Narragansett recalculated the EC50 and agrees that the EC50 should not be based on probit-analyses. Recalculation of the EC50 using the Timmed Spearman-Karber method results in an EC50 of 263.5 μg/L.

27. *Comment.* Dinnel et al. (1983) do not provide data on test acceptability.

Response. EPA can find no data in this paper to indicate control survival of oysters, squid, crabs and cabezon was unacceptable. The authors present a significant amount of data demonstrating that for sea urchins control survival was optomized. They also state that Abbott's correction was used to normalize for control survival.

28. *Comment.* For the test with the quahog clam reported by Calabrese and Nelson (1974), the background concentration of zinc in dilution water of 29 g/L should be added to zinc added in the test to represent total zinc exposure.

Response. EPA agrees and adjusted the EC50 from 166 μg/L to 195 g/L.

29. *Comment.* LC50s for lobster and larbae need Abbot's corrections when control mortalities exceed 10 percent.

Response. EPA agrees and is revising Johnson (1985) using the trimmed Spearman-Karber method. Therefore, LC50s change from 375 and 282 μg/L to 574.5 and 362.5 μg/L, respectively.

30. *Comment.* Inconsistency in 168 hr. LCO,25,50,75 and 100 cast doubt on 96 hr.-LC50s for *Pagurus longicarpus* (Eisler and Hennelegy 1977).

Response. EPA has discussed these data with the author and he said that the 168-hr. LC25 of 1450 μg/L and the LC75 of 3200 μg/L are in error and should be 145 and 320 μg/L, respectively. This resolves the published inconsistencies that resulted from a missplaced decimal point. Therefore, the 96-hr. LC50 of 400 μg/L has not been changed.

31. *Comment.* Tests with *Nereis diversicolor* at a salinity of 0.35 g/kg and *Morone saxitites* at 1.0g/kg represent freshwater, not saltwater, LC50s.

Response. EPA agrees that tests with very hard freshwater dilution water may result in similar osmotic stresses. The line between freshwater and saltwater environments is, therefore, difficult to define in upper estuarine sites. EPA believes that these data represent the sensitivity of the saltwater *N. diversicolor* and the anadromous *M. saxititis* to zinc in low salinity, upper estuarine cites and these data are appropriate to a saltwater criterion. Site-specific criteria may be developed to account for salinity differences at specific discharge sites.

32. *Comment.* The Final Acute-Chronic Ratio for zinc should be calculated using data for seven species, not just four species and should be 2.940, not 2.208.

Response. The acute-chronic ratio for the sockeye salmon was not used because it is a "less than" value, whereas those for the flagfish, brook trout, and fathead minnow were not used because they are not very sensitive species, and sensitive species often have lower acute-chronic ratios than resistant species. Indeed, using the ratios for the more resistant species would have raised the Final Acute-Chronic Ratio and thus lowered the Final Chronic Values.

33. *Comment.* The proposed criteria for zinc are based on comparatively little information derived from chronic studies and no information derived from field observations.

Response. Data are available from fourteen chronic tests on zinc with ten species of aquatic animals, including three invertebrates and seven fishes. This cannot be considered "comparatively little" chronic data. Data from field studies are rarely used in the derivation of water quality criteria because few field studies provide the kind and quality of data that can be used for regulatory purposes.

34. *Comment.* The criteria document for zinc should contain a short review of the effects of zinc and selenium on the toxicities of each other to aquatic organisms.

Response. Synergism and antagonism are certainly two of the topics that could be discussed in the section of the text titled "Other Data," but unless definitive conclusions can be drawn, such "discussion" usually cannot go beyond a recitation of the results of individual tests.

35. *Comment.* It is well established that aquatic organisms can adapt readily to zinc in their environments and EPA should consider this fact in establishing its water quality criteria.

Response. A variety of species has been found to acclimate to a variety of toxicants in acute toxicity tests, but most species also lose their acclimation fairly rapidly. In the real world, many exposures are intermittent and most continuous exposures are to fluctuating concentrations. Such a variety of situations cannot be dealt with acceptably on a national basis, but EPA does allow the derivation of site-specific criteria when justified.

36. *Comment.* Because there are significant differences in zinc tolerance between salmonid and non-salmonid species, the water quality criteria proposed by EPA should apply only to salmonid and cyprinid waters.

Response. Of the thirty-five genera with which acute toxicity tests have been conducted on zinc in fresh water, salmonids, are the 6, 7, and 15th most resistant, and cyprinids are the 3, 17, 21, 23, 24, and 28th most resistant. Thus many other species are as sensitive as species in these families. In addition, most bodies of water contain at least one salmonid or cyprinid. Site-specific criteria may be established for individual bodies of water and would presumably be higher than the national criteria for bodies of water that do not contain species that are sensitive to zinc.

37. *Comment.* Can the freshwater criterion for zinc be applied to waters when the hardness is below 50 or above 200 mg/L?

Response. Few data are available concerning the toxicity of zinc when the hardness is below 50 or above 200 mg/L. In such situations it is probably best to develop a site-specific criterion using receiving water.

38. *Comment.* The proposed values of 49 and 54 fg/L for zinc in fresh water at a hardness of 50 mg/L as $CaCO_3$ are much too low and approach nutritive values for vertebrates. The following are examples of where high doses of zinc had no effect on organisms: (1) *Daphnai magna* fed algae containing more than 30 mg/L zinc (200 times the Final Acute Value) showed no ill effects on the daphnid (Cowgill, U.M., H.W. Emmel, D.L. Hopkins, I.T. Takahashi, and W.M. Parker, 1986, Variation in Chemical Composition, Reproductive Success and Body Weight of Some Plankton, Relation to Their Consumption Int. Rev. Ges. Hydrobiol. 70:79–99). (2) Under natural conditions, 1 mg zinc/L was washed into a New England Lake from a surrounding bog by a heavy rainstorm. One hour after the storm, zinc was not detectable in the water column at 4 fg/L. No fish kill occurred nor was mortality noted in the zooplankton though it was sought (Cowgill 1972–1977). (3) In toxicity tests recently carried out with healthy daphnids, no deaths were noted at zinc concentrations below 800 fg/L. This would suggest that many of the test results reported in the draft criteria document with freshwater crustaceans were achieved with stressed, malnourished animals.

Response. Although the first example apparently indicates that daphnids are not adversely affected by high concentrations of zinc in food, it gives no indication of how much zinc they can tolerate in water. The data from the second example are not of much general utility because the zinc was possibly complexed by organic matter from the bog. The data presented in the third example are potentially important, but not enough details are presented to allow definitive conclusions to be drawn.

39. *Comment.* The freshwater criterion for zinc is below ambient concentrations that exist in streams that have balanced indigenous aquatic communities.

Response. A number of factors such as the difference between total and acid-soluble zinc, might cause such a difference. Regardless of the cause, the ambient concentration usually should not be considered too high if the aquatic organisms and their uses are not being unacceptably affected.

40. *Comment.* The proposed criteria for zinc are below the detection limits of the method(s) that are currently approved for measuring zinc.

Response. When aquatic organisms are more sensitive than analytical methods, the proper action is to develop and/or use better analytical methods, not to underprotect the aquatic organisms.

[FR Doc. 87–4146 Filed 2–27–87; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010790–004
Title: Israel Eastbound Conference
Parties: Farrell Lines, Inc., Lykes Bros. Steamship Company, Inc., Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would nodify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 224–011070
Title: Long Beach Terminal Agreement
Parties: City of Long Beach (Port)
Stevedoring Services of America, Inc. (SSA)

Synopsis: The proposed agreement would permit the Port to assign a Paceco "A" MACH portainer crane to SSA for use at its facility at the Ports Pier J. The assignment would be for a period of fifteen years.

Dated: February 25, 1987.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 87–4245 Filed 2–27–87; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR Part 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Great Bear Transportation, Inc., 727 West 7th Street, Suite 345, Los Angeles, CA 90017
Officers: Kazuhiro Hosokawa, President, Izumi Hosokawa, Secretary/Treasure, Koichi Sano, Vice President, Jiro Arakawa, Vice President

Sonja (Pfaffinger) Nagle, 2328 W. Nichols, Arlington Heights, IL 60004

Al A. Mazzarella dba West Coast Forwarding, 2174 Ponet Drive, Los Angeles, CA 90068

Capital Shipping Corp., 55 Edward Hart Drive, Jersey City, NJ 07305
Officers: Chang Do Park, President, Joanne Park, Director

Salvatore Arzillo Jr., dba Rapid Air & Ocean, 6974 NW. 12th Street, Miami, FL 33126

Dated: February 25, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87–4246 Filed 2–27–87; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of December 15–16, 1986

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on December 15–16, 1986.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that economic activity continues to grow at a moderate pace in the current quarter. Total nonfarm payroll employment grew appreciably further in October and November, and employment in manufacturing also rose after declining on balance in previous months. The civilian unemployment rate remained at 7.0 percent in November for the third consecutive month. Industrial production picked up considerably in November. Total retail sales rose moderately last month after changing little on balance over September and October. Housing starts have weakened and business capital spending generally appears to have remained sluggish. Preliminary data for the U.S. merchandise trade deficit in October suggest a moderate narrowing. Broad measures of prices have firmed somewhat in recent months due to development in food and energy markets. Labor cost increases this year have remained moderate compared with other recent years.

Growth of M2 slowed substantially in November, while growth of M3 remained moderate. Expansion of these two aggregates for the year through November has been just below the upper end of their respective ranges established by the Committee for 1986. In November growth of M1 accelerated to a very rapid rate. Expansion in total domestic nonfinancial debt remains appreciably above the Committee's monitoring range for 1986. Short-term interest rates have risen somewhat since the November 5 meeting of the Committee, while long-term rates have declined on balance. In foreign exchange markets the trade-weighted value of the dollar against other G–10 currencies has declined moderately on balance since the November meeting.

The Federal Open Market Committee seeks monetary and financial conditions that will foster reasonable price stability over time, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives the Committee agreed at the July meeting to reaffirm the ranges established in February for growth of 6 to 9 percent for both M2 and M3, measured from the fourth quarter of 1985 to the fourth quarter of 1986. With respect to M1, the Committee recognized that, based on the experience of recent years, the behavior of that aggregate is subject to substantial uncertainties in relation to economic activity and prices, depending among other things on the responsiveness of M1 growth to changes in interest rates. In light of these uncertainties and of the substantial decline in velocity in the first half of the year, the Committee decided that growth of M1 in excess of the previously established 3 to 8 percent range for 1986 would be acceptable. Acceptable growth of M1 over the remainder of the year would depend on the behavior of velocity, growth in the other monetary aggregates, developments in the economy and financial markets, and price pressures. Given its rapid growth in the early part of the year, the Committee recognized that the increase in total domestic nonfinancial debt in 1986 may exceed its monitoring range of 8 to 11 percent, but felt an increase in that range would provide an inappropriate benchmark for evaluating longer-term trends in that aggregate.

For 1987 the Committee agreed to tentative ranges of monetary growth, measured from the fourth quarter of 1986 to the fourth quarter of 1987, of 5½ to 8½ percent for M2 and M3. While a range of 3 to 8 percent for M1 in 1987 would appear appropriate in the light of most historical experience, the Committee recognized that the exceptional uncertainties surrounding the behavior of M1 velocity over the more recent period would require careful appraisal of the target range at the beginning of 1987. The associated range for growth in total domestic nonfinancial debt was provisionally set at 8 to 11 percent for 1987.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. This action is expected to be consistent with growth in M2 and M3 over the period from November to March at an annual rate of about 7 percent. Growth in M1 will continue to be appraised in the light of the behavior of M2 and M3 and the other factors cited below. Slightly greater reserve restraint or somewhat lesser reserve restraint would be acceptable depending on the behavior of the aggregates, taking into account the strength of the business expansion, developments in foreign exchange markets, progress against inflation, and conditions in domestic and international credit markets. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 4 to 8 percent.

By order of the Federal Open Market Committee, February 20, 1986.

Normand Bernard,

Assistant Secretary, Federal Open Market Committee.

[FR Doc. 87–4221 Filed 2–27–87; 8:45 am]

BILLING CODE 6210–01–M

[1] Copies of the Record of policy actions of the Committee for the meeting of December 15–16, 1986, are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

Amoskeag Bank Shares, Inc., et al., Formation of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 19, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106.

1. *Amoskeag Bank Shares, Inc.*, Manchester, New Hampshire; to merge with NTC Corp., Nashua, New Hampshire, and thereby indirectly acquire Nashua Trust Company, Nashua, New Hampshire.

B. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Keycorp*, Albany, New York, and Key Bancshares of New York, Inc., Albany, New York; to acquire 100 percent of the voting shares of Key Bank USA National Association, Albany, New York, a *de novo* bank.

2. *Saban S.A.*, Panama City, Panama, and Republic New York Corporation, New York, New York; to acquire 100 percent of the voting shares of New WSB Savings Bank, New York, New York, the successor by merger to Williamsburgh Savings Bank, Brooklyn, New York. Williamsburgh Savings Bank operates a savings bank life insurance department which issues low cost savings bank life insurance policies and life annuities. Williamsburgh Savings Bank also acts as an insurance agent for the sale of life insurance and annuity contracts. Comments on this application must be received by March 17, 1987.

C. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *F.N.B. Corporation*, Hermitage, Pennsylvania; to acquire 51 percent of the voting shares of First County Bank Chardon, Ohio.

2. *Trustcorp, Inc.*, Toledo, Ohio; to acquire 100 percent of the voting shares of Trustcorp Company, Dayton, Dayton, Ohio.

D. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Virginia Banks, Inc.*, Falls Church, Virginia; to acquire 100 percent of the voting shares of Tri-City Bancorp, Inc., Blountville, Tennessee, and thereby indirectly acquire Tri-City Bank & Trust Company, Blountville, Tennessee.

E. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Florida First City Banks, Inc.*, Ft. Walton Beach, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of First City Bank of Fort Walton, Ft. Walton Beach, Florida.

2. *Gulf/Bay Financial Corporation*, Tampa, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Gulf/Bay Bank, Tampa, Florida. Comments on this application must be received by March 23, 1987.

3. *Georgia Bankshares, Inc.*, Hawkinsville, Georgia; to become a bank holding company by acquiring 80 percent of the voting shares of The Pulaski Banking Company, Hawkinsville, Georgia.

F. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Banking Corporation*, Flint, Michigan; to acquire 100 percent of the voting shares of Commercial National Bank of Berwyn, Berwyn, Illinois.

G. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Worthington Banchares, Inc.*, Wrothington, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Worthington, Worthington, Minnesota.

Board of Governors of the Federal Reserve System, February 24, 1987.

James McAffee,

Associate Secretary of the Board.

[FR Doc. 87-4224 Filed 2-27-87; 8:45 am]

BILLING CODE 6210-01-M

Manufacturers Hanover Corp.; Proposal To Underwrite, Deal and Place Certain Securities to a Limited Extent

Manufacturers Hanover Corporation ("Applicant"), New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), for permission to engage through its wholly-owned subsidiary, Manufacturers Hanover Securities Corporation ("MHSC"), New York, New York, or other subsidiaries, in underwriting and dealing in, to a limited extent, the following securities which are eligible for purchase by banks for their own account but not eligible for banks to underwrite or deal in (hereinafter "ineligible securities"):

(1) Commercial paper;

(2) Underwriting and dealing in municipal revenue obligations (including certain "public ownership" industrial development bonds);

(3) Underwriting and dealing in certain mortgage-related securities (obligations secured by, or representing interests in, residential real estate mortgages); and

(4) Underwriting and dealing in consumer-receivable-related securities (obligations secured by, or representing an interest in, loans or receivables of a type generally made to or due from consumers) (hereinafter 'CRRs").

In addition, Applicant has applied to act as agent for issuers in connection with the private placement of the above listed securities. Applicant would conduct all of the proposed activities in a single corporation if required by the Board.

Applicant currently engages, through MHSC, in underwriting and dealing in securities that member banks are permitted to underwrite and deal in under the Glass-Steagall Act ("eligible securities") (U.S. government securities, general obligations of states and municipalities and certain money market securities as permitted by § 225.25(b)(16) or Regulation Y (12 CFR 225.25(b)(16)). In addition, MHSC, pursuant to Board authorization, provides general economic information and specific investment advice on a nonfee basis to customers concerning

these eligible securities; and engages in securities brokerage services pursuant to § 225.25(b)(15) of Regulation Y (12 CFR 225.25(b)(15)).

Applicant's principal banking subsidiary, Manufacturers Hanover Trust Company ("MHT"), also underwrites and deals in eligible securities, provides advice with respect to such securities, privately places securities and acts as placement agent with respect to commercial paper. Applicant expects to transfer such activities from MHT to MHSC.

Upon consummation of the proposal, MHSC would engage in the proposed activities as well as certain incidental activities. Applicant states that the following activities are incidental to the foregoing: Advising clients as to the general market conditions and as to the structuring, timing, pricing and other terms of any contemplated issuance or placement of such securities; clearing securities transactions in which Company or an affiliate is a participant; and utilizing hedging techniques (such as futures contracts, options, caps, floors and swaps).

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has not previously approved underwriting and dealing activities for bank holding companies as proposed by Applicant. On December 24, 1986, the Board approved an application under section 4(c)(8) by Bankers Trust New York Corporation to engage in the limited placement of third-party commercial paper with customers, even if that activity were deemed to constitute underwriting, subject to conditions. *Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 138 (1987).

Applicant states that the proposed activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto on the basis of its belief that banks engage in activities that it believes are functionally and operationally similar to those involved in the application, including privately placing securities; discounting and negotiating promissory notes; underwriting and dealing in money market instruments and other eligible securities; assessing credit and interest rate risk; and originating, purchasing and pooling mortgage and consumer loans.

In determining whether a particular activity is a proper incident to banking, the Board considers whether the performance of the activity by an affiliate of a holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest or unsound banking practices. Applicant maintains that permitting bank holding companies to engage in the proposed activities would be procompetitive; would result in greater convenience to issuers of ineligible securities; and would reduce the volatility of bank holding company earnings by diversifying revenues. In addition, Applicant believes the proposal would not result in adverse effects.

The application also presents issues under section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank, such as MHT, with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities. Applicant states that it would not be "engaged principally" in such activities on the basis of restrictions that would limit the amount of the proposed activity relative to the total business conducted by MHSC and relative to the total market in such activity. During any rolling two-fiscal-year period, MHSC's underwriting and dealing in ineligible securities (("ineligible activities") will account for no more than 15 percent of its total activities, measured by compliance with two of the three indicia set forth below:

(1) The dollar volume of underwriting commitments (or underwriting or primary sales if larger) and dealer sales attributable to the ineligible activities as a percentage of the dollar volume of all of MHSC's activities;

(2) The dollar volume of average assets acquired in connection with the ineligible activities as a percentage of the dollar volume of average assets acquired in connection with all of MHSC's activities; and

(3) The gross income from the ineligible activities as a percentage of the gross income from all of MHSC's activities.

In addition, Applicant will limit MHSC's involvement in the market for ineligible activities through the following restrictions:

(1) The total amount of commercial paper outstanding on any day underwritten or placed by MHSC shall not exceed 10 percent of the average daily amount of dealer underwritten or placed domestic commercial paper outstanding during the previous four calendar quarters (Applicant would reduce this limit to 5 percent if required by the Board);

(2) The total amount of commercial paper held in inventory by MHSC on any day shall not exceed 10 percent of the average daily amount of dealer underwritten or placed domestic commercial paper outstanding during the previous four calendar quarters (Applicant would reduce this limit to 5 percent if required by the Board);

(3) The volume of all municipal revenue securities underwritten by MHSC in any one calendar year shall not exceed 3 percent of the total amount of such securities underwritten domestically by all firms during the previous calendar year;

(4) The amount of all municipal revenue securities held by MHSC for dealing at any one time shall not exceed 3 percent of the total amount of such securities underwritten domestically by all firms during the previous calendar year;

(5) The aggregate volume of all mortgage-related securities and CRRs underwritten by MHSC in any one calendar year shall not exceed 3 percent of the total aggregate amount of such securities underwritten domestically by all firms during the previous calendar year;

(6) The aggregate amount of all mortgage-related securities and CRRs held by MHSC for dealing at any one time shall not exceed 3 percent of the total aggregate amount of such securities underwritten domestically by all firms during the previous calendar year.

In publishing Applicant's proposal for comment, the Board does not take any position on the consistency or inconsistency of the proposal with the Glass Steagall Act or the Bank Holding Company Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal is consistent or inconsistent with the Glass-Steagall Act or that the proposal meets or is likely to meet the standards of the Bank Holding Company Act. The Board previously published for comment applications by Citicorp (50 FR 20847), J.P. Morgan & Co. Incorporated (50 FR 41025), Bankers Trust New York Corporation (51 FR 16590) and other bank holding companies to underwrite and deal in the proposed ineligible securities. The Board held a hearing on

the Citicorp, J.P. Morgan and Bankers Trust applications on February 3, 1987.

Comments are requested on whether the phrase "engaged principally" under the Glass-Steagall Act contemplates the type of limitations involved in this application. Comments are also requested on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether the proposal as a whole can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." In this regard, comments are requested on whether conditions similar to those adopted in the Board's December 24, 1986 order concerning Bankers Trust New York Corporation, or other conditions, should be established to address any possible adverse effects.

Upon the expiration of the public comment period, depending upon the comments received, the Board may wish first to consider the legal issue presented by the application under the Glass-Steagall Act in order to determine whether there is a legal basis for considering whether the activities could be permitted for a bank holding company under the Bank Holding Company Act.

Any request for a hearing on these questions must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than March 28, 1987.

Board of Governors of the Federal Reserve System, February 24, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-4222 Filed 2-27-87; 8:45 am]

BILLING CODE 6210-01-M

Society Corp. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 20, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Society Corporation*, Cleveland, Ohio; to engage *de novo* through its subsidiary, Society Mortgage Company, Cleveland, Ohio, in servicing mortgage loans pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Community Bancorp, Inc.*, Rockford, Illinois; to engage *de novo* through its subsidiary, First Community Financial Services Co., Rockford, Illinois, in making, acquiring and servicing retail installment contracts covering the sale of motor vehicles and other consumer goods. Also, the company will handle dealer, retailer and customer inquiries and, either directly or through agencies, perform any correction work that need be accomplished pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in the Rockford area and throughout Winnebago and Boone counties in Illinois.

C. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to engage *de novo* through its subsidiary, Norwest Retail Services, Inc., Minneapolis, Minnesota, in making, acquiring and servicing loans or other extensions of credit; courier services; collection agency activities; and credit bureau activities pursuant to § 225.25(b)(1), (10), (23), and (24) of the Board's Regulation Y.

D. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *AmeriTex Bancshares Corporation*, Bedford, Texas; to engage *de novo* through its subsidiary, AmeriTex Financial Services, Incorporated, Bedford, Texas, in providing management consulting services to depository institutions pursuant to § 225.25(b)(11) of the Board's Regulation Y.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation*, Los Angeles, California; to engage *de novo* through its subsidiary, Security Pacific Securities, Inc., Los Angeles, California, in underwriting and dealing in government obligations and money market instruments pursuant to § 225.25(b)(16) of the Board's Regulation Y. Comments on this application must be received by March 23, 1987.

2. *Valley Capital Corporation*, Las Vegas, Nevada; to engage *de novo* through its subsidiary, Valley Financial Services, Inc., Las Vegas, Nevada, in insurance premium financing activities pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 24, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-4223 Filed 2-27-87; 8:45 am]

BILLING CODE 6210-01-M

United Security Bancorporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 13, 1987.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *United Security Bancorporation*, Chewelah, Washington; to acquire Colville Insurance Service, Colville, Washington, and Kettle Falls Insurance, Kettle Falls, Washington, and thereby engage in insurance brokerage and agency activities in towns of less than 5,000 pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. This activity will be conducted in Colville and Kettle Falls, Washington.

Board of Governors of the Federal Reserve System, February 24, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-4225 Filed 2-27-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 51 FR 31983-31984, September 8, 1986), is amended to reflect the merger of the Center for Professional Development and Training and the Laboratory Program Office into a new organization to be named the Training and Laboratory Program Office.

Section HC-B, Organization and Functions, is hereby amended as follows:

1. Delete in their entirety the headings, mission statements, and functional statements for the Laboratory Program Office (HCJ) and the Center for Professional Development and Training (HCT).

2. After the heading, mission, and functional statements for the International Health Program Office (HCG), insert the following:

Training and Laboratory Program Office (HCH). Under the direction of the Assistant Director for Public Health Practice: (1) Advises the Director, CDC, on matters related to training and laboratory performance; (2) serves as a focal point for implementing the PHS Interagency Agreement with HCFA with respect to the evaluation, development, and revision of standards and guidelines for clinical laboratories; (3) working with professional organizations and other governmental agencies evaluates, develops, and revises standards for clinical laboratory practices; (4) assists health agencies in applying planning and management skills; (5) as CDC's focus of training expertise, assists other CDC components and other clients in designing, developing, delivering, and evaluating training; (6) works in close collaboration with technical experts from within and outside CDC in designing and developing training methods, materials, and courses; (7) conducts training as needed; (8) assists CDC programs in the management of conferences; (9) manages the training and conference room facilities in the Atlanta area; (10) works collaboratively with academic institutions, especially schools of public health and departments of preventive medicine, to develop improved prevention practices; (11) provides a central service for the design, preparation, and evaluation of audiovisuals in support of CDC training and other activities; (12) assists other nations in improving the performance of health agencies and workers; (13) in carrying out the above functions works collaboratively with other Centers, Institute, and Offices of CDC.

Dated: February 13, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-4268 Filed 2-27-87; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 86E-0120]

Determination of Regulatory Review Period for Purposes of Patent Extension; Dormalin

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Dormalin and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so

long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

On December 27, 1985, FDA approved for marketing the human drug product Dormalin (quazepam), which is indicated for the treatment of insomnia characterized by difficulty in falling asleep, frequent nocturnal awakenings, and/or early morning awakenings. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Dormalin from Schering Corp. and requested FDA's assistance in determining the product's regulatory review period. The Patent and Trademark Office, however, later suspended action on the regulatory review period determination on April 7, 1986, pending resolution of an appeal before the U.S. Court of Appeals for the Sixth Circuit in *Norwich Eaton Pharmaceuticals, Inc.* v. *Bowen* or the completion of rulemaking procedures for scheduling the drug by the Drug Enforcement Administration. The issue in the *Norwich Eaton Pharmaceuticals, inc.* case was whether a drug product is approved for marketing on the date FDA approves final printed labeling for the drug or on the date FDA issues a letter stating that the NDA is approved. The Sixth Circuit recently ruled in favor or FDA, holding that a drug product is approved for marketing on the date FDA issues a letter stating that the NDA is approved. Consequently, the agency is now completing its regulatory review period determination for Dormalin.

FDA has determined that the applicable regulatory review period for Dormalin is 3,873 days. Of this time, 2,515 days occurred during the testing phase of the regulatory review period, while 1,358 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* May 22, 1975. The applicant claims that the notice of claimed investigational exemption (IND) for the drug became effective on May 28, 1975. However, FDA records indicate that the IND became effective on May 22, 1975.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* April 9, 1982. The applicant claims that the new drug application for the drug (NDA 18–708) was initally submitted on April 5, 1982. However, FDA records indicate that the application was not received until April 9, 1982.

3. *The date the application was approved:* December 27, 1985. FDA has verified the applicant's claim that NDA 18–708 was approved on December 27, 1985. The agency does not agree with the Applicant's alternative position that the drug product was approved when the Drug Enforcement Administration scheduled the drug under the Controlled Substances Act because the patent term restoration provisions in the Drug Price Competition and Patent Term Restoration Act of 1984 do not include such activities in defining the regulatory review period for human drug products.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 731 days of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before May 1, 1987, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Futhermore, any interested person may petition FDA, on or before August 31, 1987. For a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 20, 1987.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 87–4233 Filed 2–27–87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87E–0040]

Determination of Regulatory Review Period for Purposes of Patent Extension; Tenex

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Tenex and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug

products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Tenex (guanfacine hydrochloride), which is indicated for the treatment of hypertension. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Tenex from Sandoz Pharmaceuticals Corp. and requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated February 13, 1987, FDA advised the Patent and Trademark Office that the human drug product had undergone a regulatory review period and that the active ingredient, guanfacine hydrochloride, represented the first permitted commercial marketing or use of that active ingredient. This **Federal Register** notice now represents FDA's determination of the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Tenex is 3,724 days. Of this time, 2,584 days occurred during the testing phase of the regulatory review period, while 1,140 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* August 18, 1976. The applicant claims that the notice of claimed investigational exemption (IND) for the drug became effective on July 15, 1976. However, FDA did not receive the IND until July 19, 1976, and pursuant to FDA regulations, the IND became effective 30 days later on August 18, 1976.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* September 14, 1983. FDA has verified the applicant's claim that the new drug application for Tenex (NDA 19-032) was initially submitted on September 14, 1983.

3. *The date the application was approved:* October 27, 1986. FDA has verified the applicant's claim that NDA 19-032 was approved on October 27, 1986.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before May 1, 1987, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination.

Furthermore any interested person may petition FDA, on or before August 31, 1987, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m. Monday through Friday.

Dated: February 20, 1987.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 87-4234 Filed 2-27-87; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Committee; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of March 1986:

Name: National Advisory Council on Health Professions Education.

Date and Time: March 23-24, 1986, 9:00 a.m.

Place: Conference Room G&H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on March 23, 1986, 9:00 a.m. to 1:00 p.m. Closed for the remainder of meeting.

Purpose: The Council advises the Secretary with respect to the administration of programs of financial assistance for the health professions and makes recommendations based on its review of applications requesting such assistance. This also involves advice in the preparation of regulations with respect to policy matters.

Agenda: The open portion of the meeting will cover: welcome and opening remarks; report of the Administrator; report of the Director, Bureau of Health Professions; financial management update; discussion on Council issues and priorities; update on review procedures; and future agenda items. The meeting will be closed to the public on March 23, at 1:00 p.m. for the remainder of the meeting, for the review of grant application for General Practice Dental Residencies, Family Medicine Predoctoral Training, Area Health Education Centers, General Internal Medicine/General Pediatrics Residencies Training, General Internal Medicine/General Pediatrics Faculty Development, Health Career Opportunity Program, Graduate Programs in Health Administration, Public Health Capitation and Geriatric Education Centers. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Mr. Robert L. Belsley, Executive Secretary, National Advisory Council on Health Professions Education, Bureau of Health Professions, Health Resources and Services Administration, Room 8C-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6880.

Agenda items are subject to change as priorities dictate.

Dated: February 24, 1987.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 87-4291 Filed 2-27-87; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Filing of Annual Reports of Federal Advisory Committees

Notice is hereby given that, pursuant to section 13 of Pub. L. 92-463, the Annual Reports for the following Office of the Assistant Secretary for Health Federal Advisory Committees have been filed with the Library of Congress:

Health Services Research and Developmental Grants Review Committee
Health Care Technology Study Section

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, on weekdays between 9 AM and 4:30 PM at the Department of Health and Human Services, Department Library, HHS Building, Room G400, 330 Independence Avenue, Southwest, Washington, DC 20201, telephone (202) 245–6791.

Copies may be obtained from Mr. John D. Gallicchio, National Center for Health Services Research and Health Care Technology Assessment, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–3091.

Dated: February 19, 1987.

Samuel Lin,

Acting Director, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 87–4183 Filed 2–27–87; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–016–07–4410–08]

Availability of Draft Farmington Resource Area, New Mexico Resource Management Plan/Environmental Impact Statement (RMP/EIS)

AGENCY: Bureau of Land Management, Albuquerque District Farmington Resource Area, New Mexico.

ACTION: Notice of availability and public hearings.

SUMMARY: The Bureau of Land Management announces the availability of the Draft Farmington RMP/EIS for public review and comment. This document analyzes land use planning options for approximately 1,508,000 acres of public land in northwest New Mexico. The BLM also recommends designation of 19 new Areas of Critical Environmental Concern (ACEC).

DATE: Comments on the Draft RMP/EIS will be accepted if they are submitted or post-marked no later than June 3, 1987. All comments must be sent to: Bureau of Land Management, RMP Team Leader, Caller Service 4104, Farmington, New Mexico 87499–4104. There will be public hearings on the adequacy of the draft impact analysis at the following locations:

Grants, May 4, 1987, 7 p.m., Holiday Inn, I–40 Exit 85
Crownpoint, May 5, 1987, 10 a.m., Navajo Skill Center
Farmington, May 6, 1987, 7 p.m., Civic Center
Cuba, May 7, 1987, 7 p.m., Municipal Complex Meeting Room

Oral testimony will be limited to 10 minues per person.

A copy of the Draft RMP/EIS will be sent to all individuals, Government agencies, and groups who have expressed interest in the Farmington planning process. In addition, review copies may be examined at:

BLM State Office, Joseph M. Montoya Federal Bldg., Santa Fe, New Mexico
BLM Albuquerque District Office, 435 Montano Road, NE, Albuquerque, New Mexico
BLM Farmington Resource Area, 900 La Plata Highway, Farmington, New Mexico
Aztec Public Library, 201 W. Chaco, Aztec, New Mexico
University of New Mexico, School of Law Library, 1117 Stanford, NE, Albuquerque, New Mexico
Farmington Public Library, 100 W. Broadway, Farmington, New Mexico
San Juan College Library, 4601 College Blvd. Farmington, New Mexico
State of New Mexico Library, 325 Don Gaspar, Santa Fe, New Mexico
BLM DSC Library, Building 50, Denver Service Center, Denver, Colorado

SUPPLEMENTARY INFORMATION: Four alternatives for managing the public lands in the Farmington Resource Area are proposed in the Draft RMP/EIS. Each alternative discusses the following issues:

1. Land Ownership Adjustments.
2. Commercial and Home Use Fuel Sources.
3. Special Management Areas.
4. Coal Leasing Suitability Assessment.
5. Transportation.
6. Vegetative Uses.
7. Rights-Of-Way Corridors/ Windows.

The Current Management Alternative discusses a level of management similar to the current situation. This alternative corresponds to the No-Action alternative required to NEPA.

The Resource Conservation Alternative emphasizes the protection and enhancement of natural and cultural resource values. The Resource Production Alternative emphasizes the use and devlopment of public land and resources. The Preferred (or Balanced) Alternative provides for a combination of resource uses that would protect important environmental values and sensitive resources while at the same time allow development of certain resources which provide commercial goods and services.

Areas of Critical Environmental Concern

The potential ACECs which are evaluated in the Draft RMP/EIS are described below. Following the description of the values for which the area was nominated is an alphabetical listing which corresponds to major use restrictions which are summarized at the end of the ACEC discussion.

Potential ACEC's Proposed for Designation in the Preferred Alternative of the Draft RMP/EIS

1. Angel Peak (500 acres); nominated for its scenic and natural values. Major use restrictions: B, C, F.
2. Badlands (1,360 acres); nominated for its scenic and natural values. Major use restrictions: A, C, D.
3. Log Jam (320 acres); nominated for its scenic and natural values. Major use restrictions: A, C, D.
4. Lost Pine (80 acres); nominated for its scenic values, wildlife resources and natural values. Major use restrictions: A, C, D.
5. Crow Canyon District (3,580 acres); nominated for its cultural resource values. Major use restrictions: B, D, F.
6. Hooded Fireplace and Largo School District (320 acres); nominated for its cultural resource values. Major use restrictions: B, D, F.
7. Tapacito and Split Rock District (240 acres); nominated for its cultural resource values. Major use restrictions: B, D, F.
8. Frances Ruin (40 acres); nominated for its cultural resource values. Major use restrictions: B, D, F.
9. Christmas Tree Ruin (40 acres); nominated for its cultural resource values. Major use restrictions: B, D, F.
10. San Rafael Canyon (5,460 acres); nominated for its cultural resource values. Major use restrictions: B, D, F.
11. Salt Point (640 acres); nominated for its cultural resource values. Major use restrictions: B, C, D.
12. Pierre's Site (440 acres); nominated for its cultural resource values. Major use restrictions: B, C, D, E, F.
13. Halfway House (40 acres); nominated for its cultural resource values. Major use restrictions: B, C, D, F.
14. Twin Angels (40 acres); nominated for its cultural resource values. Major use restrictions: C, D, E, F.
15. Casamero Community (160 acres); nominated for its cultural resource values. Major use restrictions: E, F.
16. Chacra Mesa Complex (6,370 acres); nominated for its cultural resource values. Major use restrictions. B, C.

17. Hogback (7,520 acres); nominated for its natural values. Major use restrictions: B, C, D.

18. Aztec Gilia (6,400 acres); nominated for its natural values. Major use restrictions: B, D.

19. Bald Eagle (1,700 acres); nominated for its wildlife resource values. Major use restrictions: B, D.

Potential ACEC's Evaluated But Not Proposed For Designation In The Draft RMP/EIS

1. Carracas Mesa (3,000 acres); nominated for its scenic and natural values. Major use restrictions: B, C, F.

2. Jones Canyon (3,210 acres); nominated for its scenic and natural values. Major use restrictions: A, C, F.

3. Rattlesnake Canyon (6,400 acres); nominated for its scenic and natural values. Major land use restrictions: B, C, F.

4. Negro Canyon (3,800 acres); nominated for its cultural resource values. Major land use restrictions: A, C, F.

5. Shephard Site (40 acres); nominated for its cultural resource values. Major use restrictions: B, D, F.

6. Simon Ruin (40 acres); nominated for its cultural resource values. Major use restrictions: A, D.

7. Gobernador Knob (40 acres); nominated for its cultural resource values. Major use restrictions: B, C, D.

8. Mesa Quartado (5,270 acres); nominated for its cultural resource values. Major use restrictions: B, C, D.

9 East Side Rincon Site (100 acres); nominated for its cultural resource values. Major use restrictions: B, D, F.

10. Bohannon Canyon (9,900 acres); nominated for its natural values. Major use restrictions: B.

11. Bisti/De-na-zin (30,000 acres); nominated for its natural values. Major use restrictions: A.

12. Gobernador and Cereza Canyon (6,400 acres); nominated for its natural values. Major land use restrictions: B.

13. Kutz Canyon (30,000 acres); nominated for its natural values. Major land use restrictions: B.

14. Lybrook Fossil Area (21,000 acres); nominated for its natural values. Major use restrictions: B.

15. Reese Canyon (1,600 acres); nominated for its natural values. Major use restrictions: B, C, D, F.

Symbols For Major Use Restrictions

A. Close to off-road vehicle use.

B. Off-road vehicle use would be limited to existing roads and trails.

C. Mineral withdrawal.

D. Apply special stipulations for oil and gas exploration and development.

E. Restrict livestock grazing.

F. Close to fuelwood gathering.

FOR FURTHER INFORMATION CONTACT: For more information or to obtain copies of the Draft RMP/EIS, contact Doug Burger, RMP Team Leader Farmington Resource Area, Caller Service 4104, Farmington, New Mexico 87499. Telephone (505) 325-3581.

Dated: February 19, 1987.

Larry L. Woodard,

State Director.

[FR Doc. 87-4203 Filed 2-27-87; 8:45 am]

BILLING CODE 4310-FB-M

[UT-040-07-4332-10]

Availability of Draft Environmental Assessment on Residential Trespass Within Steep Creek Wilderness Study Area; Utah

AGENCY: Department of the Interior, Bureau of Land Management, Cedar City District.

ACTION: Notice of availability of draft Environmental Assessment (EA).

SUMMARY: The Bureau of Land Management recently discovered an unintential trespass in the Steep Creek WSA. The owner of private property on Deer Creek has begun construction of a rock house which is partially within the WSA. In addition, stacks of building materials, a fence and gate, a dug-out, a chicken coop, and a few non-native trees have been placed within the WSA. This EA was prepared to consider appropriate action to resolve this trespass.

DATE: Comments on the draft EA are due at the address listed below not later than March 31, 1987.

ADDRESS: To obtain a copy of the draft EA, request additional information, or submit comments, contact George Peternel, Bureau of Land Management, Escalante, Utah 84726.

Dated: February 19, 1987.

Dennis Curtis,

Acting District Manager.

[FR Doc. 87-4199 Filed 2-27-87; 8:45 am]

BILLING CODE 4310-DQ-M

[AZ-940-07-4212-13; A-21572]

Conveyance of Public Land; Reconveyed Land Opened to Entry in Mohave County, AZ

February 20, 1987.

Notice is hereby given that pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716), the following described land was transferred out of Federal ownership in exchange for privately-owned land. The land transferred into private ownership is described as follows:

Gila and Salt River Meridian, Arizona

T. 19 N., R. 22 W.,
Sec. 12, N½N½.

The area described aggregates 160.00 acres, according to the official plats of surveys of said land, on file in the Bureau of Land Management.

The land acquired by the United States is described as follows:

Gila and Salt River Meridian, Arizona

T. 18 N., R. 17 W.,
Sec. 9, N½N½, SE¼SW¼ (excepting 0.23 acres, see warranty deed to U.S.), SE¼;
T. 20 N., R. 20 W.,
Sec. 23, NE¼, N½SE¼, E½SW¼SE¼, SE¼SE¼.

The area described aggregates 659.77 acres, according to the official plats of surveys of said land, on file in the Bureau of Land Management.

The real estate value of both the selected and offered lands in the exchange were appraised at approximately equal values.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and the acquisition of private land by the Federal Government.

The surface of the land acquired by the Federal Government in this exchange will be open to entry under the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, at 9:00 a.m., thirty days from publication of this notice. The mineral estate is owned by the Santa Fe Pacific Railroad Company and, therefore, will not be subject to entry under the United States Mining or Mineral Leasing Laws.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-4201 Filed 2-27-87; 8:45 am]

BILLING CODE 4310-32-M

[A-21619]

Realty Action; Modified Competitive Sale; Public Land in Pinal County, AZ

The following described land has been determined as suitable for disposal in accordance with section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713). Minerals, except oil and gas, will also be conveyed per section 209(b) of FLPMA (90 Stat. 2757, 43 U.S.C. 1719), for an administrative fee of $50.00. The

land will be offered at not less than the appraised fair market value (FMV) and not until 60 days after the date of this notice.

GILA AND SALT RIVER MERIDIAN, ARIZONA

Legal description	Acreage	FMV
T. 1 N., R. 8 E., Sec. 27, S½NE¼SW¼SE¼	5.00	$15,700.00

The land described above is hereby segregated from appropriation under the public land laws, including the mining laws, until a patent is issued or 270 days from the date of publication of this notice, whichever occurs first.

The land which will be sold is not required for any federal purpose. It does not complement BLM programs and the location and physical characteristics of the tract, along with the private ownership of adjoining lands, makes it difficult and uneconomical to manage as public land. Disposal of the land would have no significant effect on resource values and would best serve the public interest.

The Bureau of Land Management will offer the above described land through a modified competitive bidding procedure that identifies four (4) adjacent landowners as the designated bidders giving them the opportunity to exercise their preference right. Only bids from the designated bidders will be accepted.

Federal law requires that all bidders be U.S. citizens, or in the case of corporations, be subject to the laws of any state in the U.S. Proof of these requirements must accompany a sealed bid submitted to the BLM. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft or cashiers check made payable to the Department of the Interior, BLM for not less than 20% of the bid. In addition, the designated bidders will be required to submit evidence of adjoining land ownership to validate the bid. Such evidence must establish ownership in fee simple of lands adjoining the sale parcel on the date of the sale.

The successful bidder will also be required to reimburse Mr. Kenneth Ragan $800.00 in the event that he is not the successful bidder for costs associated with the appraisal report and the transit survey when receipts are received.

The above described tract will be subject to the following reservations when patented:

1. A right-of-way is reserved for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945).

2. A right-of-way under Serial No PHX 079863 (200 ft. centerline) for highway purposes under Reserved Status 2477, (43 U.S.C. 932).

3. A reservation of all oil and gas to the United States with the right to prospect for, drill, and remove such deposits.

4. A right-of-way under Serial No. A-22529 (5 ft. southerly and 10 ft. northerly of centerline).

The successful bidder will also be required to purchase the mineral estate at the time of final payment. The total purchase price for the land shall be paid within 180 days of the sale.

Detailed information concerning the sale, including the reservation, and conditions is available at the address stated below.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comment will be evaluated by the State Director who may vacate or modify this realty action and issue a final detemination. In the absence of any action by the State Director, this realty action will become the final detemination of the Department of the Interior. Comments regarding this action should be sent to the Phoenix District, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: February 20, 1987.

Henri R. Bisson,

Acting District Manager.

[FR Doc. 87-4202 Filed 2-27-87; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-06-4212-11; A 20633]

Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Arizona

AGENCY: Bureau of Land Management (BLM), Interior.

BLM is considering the lease of public land within the following described township for recreation and public purposes uses.

Gila and Salt River Meridian, Arizona

T. 3 S., R. 7 E., portions of Sections 4, 8-10, 16-22 and 27-36.

Containing 8878.98 acres, more or less.

The land has been found suitable under the provision of the R&PP Act of June 14, 1926, as amended (44 Stat. 741: 43 U.S.C. 869; 869-4) and is properly classified for recreation and public purposes as stated in 43 CFR 2430.4(a)(c).

This classification is consistent with the criteria of 43 CFR 2410.1 (a) through (d) which requires that (a) the lands are physically suitable for the purposes for which they are classified; (b) all present and potential uses and users of the land were taken into consideration in the classification; (c) the land classification is consistent with state and local government programs; and (d) the land classification is consistent with current Federal programs and policies.

Classification of this land under the provisions of the above cited Recreation and Public Purposes Act segregates them from appropriations under the public lands laws, including under the mining laws, but not from applications under the mineral leasing laws or the Recreation and Public Purposes Act for a period of eighteen months from the date this notice is published in the **Federal Register** (43 CFR 2741.5(2).

Detailed information concerning this classification is available from the Phoenix District Office, Bureau of Land Management, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

For a period of 45 days from the date of publication of this notice in the **Federal Register** interested parties may submit comments to the Phoenix District Manager.

This classification decision relates only to land classification. The merits of all R&PP applications will be evaluated and a determination to approve or disapprove the applications will be made at a later date.

Henri R. Bisson,

Acting District Manager.

Dated: February 18, 1987.

[FR Doc. 87-4198 Filed 2-27-87; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-07-4212-12; A 20346]

Continuance of Segregative Effect; Realty Actions, Sales, Leases, Arizona

AGENCY: Bureau of Land Management, Interior.

The purpose of this action is to continue for an additional two (2) year period the segregative effects of realty actions published in the **Federal Register** as follows:

A 20346-A published on March 22, 1985, pages 11580—11581, Vol. 50, No. 59, is hereby extended through March 21, 1989.

A 20346-B published on Wednesday, March 27, 1985, pages 12083-12085, is hereby extended through March 26, 1989, except for those lands conveyed to the state of Arizona as described in the **Federal Register**, Vol. 52, No. 1, page 171 published on Friday, January 2, 1987.

Dated: February 18, 1987.

Henri R. Bisson,

Acting District Manager.

[FR Doc. 87-4200 Filed 2-27-87; 8:45 am]

BILLING CODE 4310-32-M

[NV-930-07-4332-06]

Announcement of Publication of a Document Which Contains Inventory Decisions for the Ten Wilderness Study Areas (WSAs) Under Section 603 of the Federal Land Policy and Management Act (FLPMA) Being Reinstated to the Wilderness Study Process as the Result of a Court Case.

AGENCY: Bureau of Land Management, Interior.

SUMMARY: By publication in the August 14, 1986 **Federal Register**, pages 29169 through 29170, the BLM announced the beginning of a 90 day public review and comment period on the proposed inventory decisions which determined whether each reinstated WSA would be studied under section 603 or 202 of FLPMA, Pub. L. 97-579. The public comment period ended on November 20, 1986. During the public comment period ten written comments were received, reviewed and analyzed. Review and analysis of the public comments revealed no new evidence or information that would change the proposed inventory decision to further study the ten WSAs under section 603 of FLPMA. Section 603 calls for the WSAs to be studied and analyzed through an environmental impact statement to determine their suitability or nonsuitability for inclusion as wilderness in the National Wilderness Preservation System. The study phase will commence following the protest period for these inventory decisions. The ten WSAs being studied under section 603 of FLPMA discussed in this document are listed below:

WSA name	County	Acreage	Contiguous lands
Marble Canyon (NV040-086)	White Pine	19,150	USFS prop. wilderness.
Fish & Wildlife No. 1 NV050-201)	Lincoln/Clark	11,090	USFWS prop. wilderness.
Fish & Wildlife No. 2 NV050-216)	Clark	17,242	USFWS prop. wilderness.
Fish & Wildlife No. 3 NV050-217)	Clark	22,002	USFWS prop. wilderness.
Lime Canyon (NV050-231)	Clark	34,680	NPS roadless area.
Million Hills (NV050-233)	Clark	21,296	NPS roadless area.
Garrett Buttes (NV050-235)	Clark	11,835	NPS roadless area.
Quail Springs (NV050-411)	Clark	12,145	USFWS prop. wilderness.
El Dorado (NV050-423)	Clark	12,290	NPS roadless area.
Ireteba Peaks (NV050-438)	Clark	14,994	NPS roadless area.

The inventory report for the reinstated WSAs, including maps, is available upon request from the Bureau of Land Management at the address listed below.

SUPPLEMENTARY INFORMATION: Persons wishing to protest any of the inventory decisions announced herein must do so in writing to the Nevada State Director, Edward F. Spang, on or before April 10, 1987 at the address listed below. Only those written protests received in the Nevada State Office by the date specified will be accepted. The protest must specify the WSA to which it is directed and include the name and address of the person(s) protesting. It must also include a clear and concise statement of the reasons why the WSA should not be studied under section 603 of FLPMA, as well as data to support the reasons stated.

DATES: There is a 30 day protest period on the wilderness inventory decisions. All protests must follow the procedures outlined under **SUPPLEMENTARY INFORMATION** and must be received by the Bureau's Nevada State Director by April 10, 1987.

ADDRESS: Protest on the inventory decisions should be sent to the State Director, Nevada State Office, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520. Questions regarding specific WSAs should be directed to the BLM District Manager with jurisdiction for the area. Questions on Marble Canyon should be directed to Ely District Manager, Star Route 5, Box 1, Ely, Nevada 89301. Questions on the other nine WSAs should be addressed to the Las Vegas District Manager, P.O. Box 26569, Las Vegas, Nevada 89126.

FOR FURTHER INFORMATION CONTACT: Steve Smith, Wilderness Coordinator, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, telephone (702) 784-5748.

Dated: February 12, 1987.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 87-4204 Filed 2-27-87; 8:45 am]

BILLING CODE 4310-HC-M

[NV-943-07-4220-10; N-19622]

Legal Description of Bravo 20 Bombing Range Withdrawal; Nevada; Correction

February 11, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUMMARY: This notice provides a correction to the legal description published for the Navy's Bravo 20 Bombing Range withdrawal in Nevada.

EFFECTIVE DATE: November 6, 1986.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, (702) 784-5481.

SUPPLEMENTARY INFORMATION: In **Federal Register** document 87-1928 on page 3176 in the issue of Monday, February 2, make the following corrections:

In the first column:

Line 5 under Summary, "secretary" should read "section."

Line 7 of the legal description should read "secs. 6, 8, 18, 20, 29, 30;"

Line 19 under Supplementary Information, the acreage should read "21,577."

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 87-4232 Filed 2-27-87; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Receipt of Applications for Permits; Burnet Park Zoo et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-715571

Applicant: Burnet Park Zoo Syracuse, NY

The applicant requests a permit to export one American alligator (*Alligator mississippiensis*) to the Metro Toronto Zoo for exhibition and educational purposes. The alligator was found abandoned at a pond in Oswego County, New York.

PRT-715575

Applicant: Lavern Edewaard Holland, MI

The applicant requests a permit to import a trophy bontebok (*Damaliscus dorcas dorcas*) from a captive herd maintained by M.J. D' Alton, Bredasdorp

7280, Republic of South Africa. The herd is maintained for the purpose of sport hunting. The applicant contends that permission to import this trophy will enhance the likelihood of the continued maintenance of this herd and thereby enhance the likelihood of survival of the species.

PRT-715691

Applicant: Henry Doorly Zoo Omaha, NE

The applicant requests a permit to import one captive born male Chinese leopard (*Panthera pardus japonensis*) from Hagenbeck Tierpark, Hamburg, Germany, for exhibition and captive breeding.

PRT-715693

Applicant: Gibbon & Gallinaceous Bird Center Saugus, CA

The applicant requests a permit to purchase one male pileated gibbon (*hylobates pileatus*) from Lowry Park Zoological Garden, Tampa, Florida, for purposes of captive breeding and behavioral and reproductive research. This gibbon was removed from the wild in Cambodia and has been in captivity in the U.S. since 1964.

PRT-715440

Applicant: New York Zoological Society Bronx, NY

The applicant requests a permit to import one male and one female giant panda (*Ailuropoda melanoleuca*) from Beijing Zoo, Beijing, China, for the purpose of enhancing the survival of the species by educating the public about the ecological role and conservation needs. The applicant wishes to reexport the same specimens to China. The male was born in captivity at Beijing Zoo, China, and is still to young to breed. The female was removed from the wild in Sichuan Province, China, in 1981 and has been held in captivity. The female is considered too aggressive to be used in a breeding program. Therefore, these two specimens will not be removed from a breeding program due to this import.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: February 25, 1987.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-4312 Filed 2-27-87; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Application for Permit; Adventure World

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*, the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*) and the regulations governing marine mammals and endangered species (50 CFR Parts 17 and 18).

Applicant

Name: Adventure World, ———— File No. PRT-715460, 2399-1 Kushigamine, Katada, Shirahama-cho, Nishi-Muro-Gun, Wakayama, Prefecture, Japan.

Type of Permit: Public Display.

Name of Animals: 5 Alaskan sea otter (*Enhydra lutris lutris*).

Summary of Activity to be Authorized: The applicant proposes to Take (capture) these animals and export them to Adventure World for public display.

Source of Marine Mammals for Display: State of Alaska, Prince William Sound, Green Island, or as designated by the Alaska Department of Fish and Game.

Period of Activity: April 1987 to June 1987.

Concurrent with the publication of this notice in the **Federal Register**, the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (FWPO), 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connections with the above application are available for review during normal business hours (7:45 am to 4:15 pm) in Room 601 N. Glebe Road, Arlington, Virginia.

Dated: February 25, 1987.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-4313 Filed 2-27-87; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30985]

The Colorado & Wyoming Railway Company; Trackage Rights Burlington Northern Railroad Co.; Exemption

The Colorado & Wyoming Railway Company (CW) has agreed to grant local and overhead trackage rights to Burlington Northern Railroad Company (BN) between Guernsey and Sunrise, WY, a distance of approximately 6 miles[1]

The trackage rights agreement was entered into on September 5, 1986 and amended December 19, 1986. The trackage rights became effective on February 9, 1987.

This notice is filed under 49 CFR 1180.2(d) (7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: February 18, 1987.

By the Commission, Jane F. Mackall, Director of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-4239 Filed 2-27-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30957]

Fourteen Eleven Corporation and Middletown & Hummelstown Railroad Company; Control Exemption; Exemption

On January 30, 1987, Fourteen Eleven Corporation (1411) and Middletown & Hummelstown Railroad Cmpany (M&H) filed a notice of exemption under 49 CFR 1180.2(d)(2) for M&H to purchase the common stock of 1411, which owns a

[1] BN will operate its own trains, with its own crews, over the CW trackage. No track construction is necessary to implement the trackage rights grant.

2.5-mile of railroad (formerly known as the Columbia Industrial track) between milepost 37.2 and milepost 39.7 in Columbia, Lancaster County, PA.[1] Wendell J. Dillinger presently owns more than fifty percent of the common stock of M&H and, upon approval of this transaction, would then control both railroads.

This transaction is related to Finance Docket No. 29984. In that proceeding, M&H filed a notice of exemption to lease and operate this 2.5-mile segment. Thus, the purpose of this exemption is for M&H to continue operations over the line, as both operator and owner, through the purchase of the stock of 1411.

The lines of 1411 and M&H do not connect and the acquisition of control is not part of a series of anticipated transactions that could lead to a connection. The transaction does not involve a Class I carrier. Accordingly, acquisition of control of 1411 and M&H by Mr. Dillinger comes within the class of transactions exempted from the prior approval requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979) *(New York Dock)*. This will satisfy the requirements of 49 U.S.C. 10505(g)(2).[2]

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 18, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-4240 Filed 2-27-87; 8:45 am]

BILLING CODE 7035-01-M

[1] On December 12, 1986, 1411 and M&H filed a petition for exemption under 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 11343. Since neither of the railroads are Class I carriers, their lines do not connect with each other, and the acquisition is not part of anticipated transactions that would connect the railroads, petitioners appropriately refiled with a notice of exemption pursuant to the class exemption procedures at 49 CFR 1180.

[2] Petitioners contend that we should not impose labor protective conditions; however, *New York Dock* conditions are applicable to control transactions. Therefore, we will impose them here as a condition to use of the exemption.

[Docket No. AB-117 (Sub-No. 4X)]

Elgin, Joliet and Eastern Railway Company; Exemption; Discontinuance of Service; in Lake County, IN

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the discontinuance of service by the Elgin, Joliet and Eastern Railway Company over: (1) .47 miles of rail line of the Indiana Harbor Belt Railway; and (2) .07 miles of rail line of the Baltimore and Ohio Chicago Terminal Railroad Company in Hammond, Lake County, IN, subject to labor protective conditions.

DATES: This exemption will be effective on April 1, 1987. Petitions to stay must be filed by March 12, 1987, and petitions for reconsideration must be filed by March 23, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB-117 (Sub-No. 4X) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; (2) Alice C. Saylor, P.O. Box 68, Monroeville, PA 15146.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: February 18, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee

Secretary.

[FR Doc. 87-4241 Filed 2-27-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Proposed Aggregate Production Quotas for Controlled Substances in Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed 1987 aggregate production quotas.

SUMMARY: This notice proposes 1987 Aggregate Production Quotas for Schedule I Controlled Substances normorphine, mescaline and ibogaine.

DATE: Comments or objections should be received on or before April 1, 1987.

ADDRESS: Send comments or objections in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, DC 20537 Attn: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S. Code, Section 826) requires that the Attorney General establish aggregate production quotas for all controlled substances listed in Schedules I and II. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations.

The Drug Enforcement Administration received applications to manufacture in 1987 a number of Schedule I controlled substances.

The Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S. Code, Section 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations, hereby proposes 1987 aggregate production quotas for the following controlled substances, expressed in grams of anhydrous base:

Basic class	Proposed 1987 aggregate production quotas
Schedule I:	
Mescaline	5
Normorphine	2
Ibogaine	35

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative, and must be received by April 1, 1987. If a person believes that one or more issues raised by him warrant a hearing, he

should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall order a public hearing by a notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

Pursuant to sections 3(c)(3) and 3(e)(2)(C) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. Code 601, *et seq.* The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international commitments of the United States.

Such quota impact predominantly upon major manufacturers of the affected controlled substances.

Dated: February 20, 1987.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87-4253 Filed 2-27-87; 8:45 am]

BILLING CODE 4410-09-M

Immigration and Naturalization Service

Cooperative Agreement; Designated Entities Authorized To Receive Legalization and Special Agricultural Worker Applications for Temporary Residence on Behalf of the Attorney General; Availability of Funds for FY 1987, 1988, and 1989

Introduction

The Immigration and Naturalization Service (INS) announces the availability of funds in fiscal year 1987, 1988 and 1989 for cooperative agreements for organizations and persons to provide information and assist aliens applying for temporary residence under the legalization and special agricultural worker provisions of the Immigration Reform and Control Act of 1986 (IRCA or "The Act").

The cooperative agreement will be awarded and administered by INS under the authority of Title II section 201 of the Act. Cooperative agreements will be in operation from their award dates to the end of the fiscal year 1987 (September 30, 1987) with extensions possible upon written mutual consent.

The purpose of the cooperative agreement is for voluntary organizations and other qualified state, local, community, farm labor organizations, associations of agricultural employers and certain qualified persons, (hereinafter all known as "designated entities,") to provide information and assistance in a risk-free environment to aliens seeking to apply for legalization/special agricultural worker temporary residence. This effort is designed to encourage mass participation by eligible applicants.

The INS will ensure that such designated entities involved in the legalization/special agricultural workers programs are trained to assit applicants. This will enable the INS to receive properly completed and documented applications from such organizations or persons, thus reducing INS officers' adjudication time. It will also discourage aliens from submitting frivolous applications at INS offices, thus avoiding an unnecessary workload.

The broad range of activities covered in the cooperative agreement fall within the scope of the Service's implementation tasks.

The objectives of this program are as follows:

1. To implement the Immigration Reform and Control Act of 1986 and encourage mass participation of eligible aliens in the legalization/special agricultural worker programs.

2. To develop qualifications and standards for voluntary organizations and other qualified state, local, community and farm labor organizations, associations of agricultural employers and certain qualified persons, to participate in the legalization/special agricultural worker programs.

3. To sign cooperative agreements and develop a network of designated entities to assist the application process.

4. To develop, organize and train staffs of designated entities to assist applicants seeking to file applications for temporary residence under the Act.

5. To monitor the activities of the designated entities i.e., quality control of application assistance and preparation of applications according to law and regulations, production standards, dissemination of information to general public, required reports, training, etc., and general compliance of the cooperative agreement.

The Deputy Commissioner, INS, shall be authorized to approve cooperative agreements with designated entities. An INS Contracting Officer will execute approved cooperative agreements. The INS shall appoint a Government Project Manager (GPM) who shall have authority under the Commissioner, INS, to direct the overall implementation and coordination of this cooperative agreement.

Cooperative Activities

I. Designated Entities

Designated entities will participate in the cooperative agreement as National Coordinating Agencies or Direct Service Providers. Organizations referred to as coordinators of affiliates are designated as National Coordianting Agencies. Independent counseling organizations and national coordinating affiliates that provide direct information and assistance are designated as Direct Service Providers. In certain situations, it may be possible for a National Coordinating Agency to function also as a Direct Service Provider. Persons will participate as Direct Service Providers.

Direct Service Providers will be given the option of providing facilities for INS to interview applicants for adjudication.

A. National Coordinating Agencies Will Perform the Following Tasks

1. Appoint a national project director who has the authority and ability to carry out the following tasks regarding the establishment, operation and closure of direct service sites:

a. For the purposes of program coordination, consult with INS regarding direct service site location and time phase-in of sites.

b. Develop for INS approval written agreements with local direct service sites that incorporate the requirements and provisions established in the cooperative agreement.

c. Assure the continued efficient operation of each direct service site within agreed-upon service levels.

d. No unilateral site closures or openings will be permitted without prior notification, negotiation and approval of the INS.

2. In the areas of training, technical assistance and public information, the national project director shall perform the following tasks:

a. Cooperate and coordinate with INS in the training of direct service site staff both initially and on an as-needed basis.

b. Provide technical assistance to direct service sites as required.

c. Resolve problems that may be detected in the monitoring system or that might otherwise come to the attention of national Coordinating Agency or the INS.

d. Distribute public informaion materials prepared by the INS for the legalization/special agricultural worker programs.

3. Reports:

a. Brief, one to two-page quarterly activity reports will be submitted to the INS by the thirtieth (30th) day of the following month. These reports will include: a statement of National Coordinating Agency activities conducted during the previous month, activities planned for the next month, problems encountered, related technical assistance needs, and issues regarding the overall operation of the program, and interim recommendations.

b. A draft final report will be submitted to the INS thirty (30) days prior to expiration date of the cooperative agreement. This report is not to be a compilation of monthly reports, but rather a summarization of activities and observations of the program from the viewpoint of the National Coordinating Agency so that future efforts may be able to rely on the experiences of this effort. After ten (10) days review and comment by INS, the draft final report will be returned to the National Coordinating Agency, with the final copy due to the INS on the final day of the agreement period.

c. Other reasonable work-flow reports as requested.

4. Meetings: The national project director will meet with INS representatives, as scheduled or as needed.

5. Biographic Information: National Coordinating Agencies, all their affiliates (through the National Coordinating Agencies) shall maintain on file the following information on all their employees working under this Cooperative Agreement: complete name, date and place of birth, citizenship or nationality and current address. This shall be made available to INS representatives upon request.

6. All program files and records must be kept for at least three years after the expiration date of the cooperative agreement or after the date of receipt of the last payment, whichever is later.

7. No information gained about specific applicants, other than summary statistics, may be released to INS or to other individuals, agencies or offices, except in accordance with Privacy Act regulations.

B. Direct Service Providers

1. A Direct Service Provider is one that has satisfied all the terms and conditions stated below and has entered into an INS approved written agreement, either directly as an independent Direct Service Provider or as an affiliate of a National Coordinating Agency which in turn has an approved written agreement directly with INS.

A Direct Service Provider will provide information and assist applicants to complete and submit their applications at an appropriate INS Legalization Office. Such applications filed with a Direct Service Provider shall be stamped with an endorsement as to the date of preparation and authorization for transmittal. An application is considered "filed-and-accepted" by INS when it has been accepted for adjudication by INS. It will be accepted by the Service when a complete application and filing fee, if required, has been accepted and a receipt issued.

The Direct Service Provider will appoint an on-site manager with the authority and ability to carry out the following tasks:

a. For the purposes of program coordination, consult with INS regarding direct service site location and time phase-in of sites. If the Direct Service Provider is an affiliate of a National Coordinating Agency, this task will be coordinated by the National Coordinating Agency and the INS.

b. Assure the continued efficient operation of the direct service site.

c. No unilateral site closures or openings will be permitted without poiroir negotiation with and approval by the INS. If the Direct Service Provider is an affilaite of a National Coordinating Agency, this activity will be coordinated by the National Coordinating Agency and the INS.

2. The Direct Service Provider will perform the following tasks regarding the facility and equipment:

a. The local Direct Service Provider site will be furnished and meet all state and local fire codes and other codes designed to protect the health and safety of staff and visitors.

b. The facility will be equipped with sufficient chairs, tables, desks, phones, files, etc., to allow the orderly flow of work and public waiting, and provide informaion and assistance in a secure, private, orderly fashion.

c. The facility will have controlled storage space for INS forms.

3. Staff Responsibilities:

a. Sufficiently trained staff will be made available to provide information and assist applicants to complete the required forms (training will be provided by INS and National Coordinating Agency).

b. The staff will comply with all legalization program and related regulations and follow the procedures prescribed by INS.

4. Information and Assistance includes the following:

a. Distribute forms and provide information regarding eligibility requirements to interested persons.

b. Review and assure accuracy of applicant's claim to legalization or special agricultural worker temporary residence, provide general information regarding supporting documentation requirements, review applicant's application for completeness.

c. Provide general assistance as is necessasry (type or print) in order to help complete the INS application form.

d. Assure accuracy and assemble the supporting documents, provide certification of copies of documents, assemble and attach documentation to the INS application.

e. Complete the fingerprint form and attach photographs to appliclation.

f. Attach the medical record to the application.

g. Provide general information about waiver requirements and help complete waiver form(s), if necessary.

h. Advise the applicant to purchase the required financial instruments to cover the INS filing fee, if required, for each applicant and submit with the application and fee to INS.

i. Filing date: The date for alien submits a completed application to an INS Legalization Office or Direct Service Provider shall be considered the filing date of the application, provided that in the case of an application filed at a designated entity the alien has consented to having the designated entity forward the application to the Legalization Office having jurisdiction over the location of the alien's residence. The designated entities are required to forward completed applications to the appropriate INS Legalization Office within sixty (60) days of receipt.

j. Advise the applicant about filing the appliclation: According to IRCA, the applicant must provide consent in writing before application is forwarded to INS; consent certification must be signed by both the applicant and the preparing member of the Direct Service Provider; such consent documentation must be attached to the application to be submitted to INS.

k. Provide other advice to applicant, including:

(1) Where, when and how to file the application, including financial instruments to cover application filing fee.

(2) The responsibilities of residency, if approved, including taxes, Selective Service registration, etc.

(3) The procedures if the application is not approved including INS procedures for making criminal record checks, employment checks, public charge checks, etc.

(4) The penalties for fraudulent documents. Applicants with fraudulent documents shall be advised not to file applications with the Service. Applicants not qualified shall be advised that they will remain in a illegal status and are subject to possible apprehension and deportation.

5. The site manager will respond to inquiries from INS officers in a timely manner on cases requiring return and follow-up action and other related application inquiries.

6. Fingerprinting/Photographic Services: The Direct Service Provider site may maintain on-site facilities, equipment and trained staff for fingerprinting and photographic services. Applicants will be given the option of having their fingerprints taken on-site or at any other non-INS facility (e.g., police station). A nominal fee reflecting local price structures may be charged for these services. This fee is subject to the review and approval of INS. The fee for photography and fingerprinting shall not exceed Twenty-five ($25.00) dollars. Direct Service Providers may not take fingerprints or photographs of applicants at INS facilities, unless authorized by the District Director or Officer-in-Charge.

7. Public Information: The Direct Service Provider will publicize the availability of the facility on a regular basis through the area media and through churches, schools, community organizations, ethnic groups, etc.

8. Representation and Referral Conditions:

a. To avoid any action which might result in or create the appearance of giving preferential treatment to any person, losing independence or impartiality, or affecting adversely the confidence of the public in the integrity of the program or the Government, no fee or donation may be solicited, accepted or required by the Direct Service Provider site for the information and assistance activities covered in items 4.1 to 4.9 above except photograph and fingerprint services as discussed. The Direct Service Provider may request a suggested nominal fee or donation for immigration counseling service related to extensive interviewing, researching, documentation retrieval, translations or in-depth counseling in the preparation of the application. Note: Nominal fees/donations are subject to review and approval of INS. Such nonimal fees/donations must be nominal for the applicant, not the designated entity. The cumulative fees/donations for any applicant shall not exceed Seventy-five ($75.00) dollars for all counseling services plus photography and fingerprinting not exceeding Twenty-five ($25.00) dollars. Direct Service Provider staff will advise all persons they assist that the only fee required by INS is the specified filing fee per application.

b. No monies derived from the federal government in this agreement may be used in whole or in part to fund attorneys or repesentatives appearing before the Service in filing a G–28 Notice of Appearance in behalf of their clients.

c. Any referrals of applicants to fee-charging or donation-accepting centers must be general rather than specific (i.e., a list of organizations, attorneys, etc.).

9. Monitoring and technical assistance: The certified Direct Service Provider site will cooperate in all monitoring activities by the INS as set out in this agreement. Monitoring is limited to the review of site pesonnel and procedures as specified in this agreement. Such monitoring shall not, however, relate to any confidential information regarding applicants for the legalization/special agricultural workers programs.

10. Reports:

a. The following records and reports are to be maintained by Direct Service Providers and reported to the INS upon request.

(1) Number of persons provided information (no names required).

(2) Other reasonable work-flow statistics requested by INS. (For example, existing caseloads, currency of interviews, case backlogs, number of person seeking assistance during regular (8:00 a.m. to 5:00 p.m.) work hours versus extended hours; number of persons screened out as not qualified; more or less persons visiting site during first few months; frequent questions posed by those seeking information; or other trends indicating aliens' participation or non-participation in the legalization and special agricultural workers programs.)

(3) If the Direct Service Provider is an affiliate of a National Coordinating Agency, these reports will normally be reported to the INS throught the National Coordinating Agency. In order for the INS to plan for anticipated workloads at INS offices or for INS interviews at facilities provided by Direct Service Providers, the INS may request and receive these reports directly from the Direct Service Providers.

b. Meetings: Direct Service Providers shall meet with the INS or its designated individuals on a mutually agreed upon schedule as necessary.

11. Biographic Information: Independent Direct Service Providers shall maintain on file the following information on all their employers working under this Cooperative Agreement: complete name, date and place of birth, citizenship or nationality and current address. This shall be made available to INS representative upon request.

12. All program files and records must be kept by indpendent Direct Service Providers for at least three years after the expiration date of the cooperative agreement or date of receipt of final payment whichever is later.

13. No information gained about specific legalization applicants, other than summary statistics, may be released to INS or to other individuals, agencies or offices, except in accordance with Privacy Act regulations.

14. Direct Service Providers that provide INS with facilities to accept applications or conduct adjustment interviews for legalization/temporary resident applicants shall coordinate this activity through the district legalization officers. The government shall not pay or reimburse the Direct Service Provider or any other entity for the use and maintenance of the facilities used for INS interviews. Tasks of the Direct Service Providers include:

a. Notifying INS of completed applications of persons consenting to be interviewed at the facilities.

b. Setting dates for the interviews, in coordination with INS.

c. Arranging for suitable facilities for interviews (tables, chairs, access to restroom facilities, etc.).

d. Notifying applicants of interview dates.

e. Assisting INS personnel assigned to facilities in the efficient interviewing of the applicants (queing, crowd control, arranging for photograph and fingerprint services, etc.).

II. INS Activities

The following activities relate to the collaborative and programmatic role of the INS:

A. Monitoring, training and technical assistance: INS will monitor, provide technical training and technical assistance to Direct Service Providers. Both through its regional and district structures and national Outreach Program, INS will provide training, technical assistance and monitoring services. This may entail direct on-site observation and needs analysis, reports, and recommendations for improvements. Such monitoring, however, shall not involve access to confidential information, including all personal information as specified in the IRCA, without the consent of the applicant.

B. Disputes: Any dispute concerning a question of fact arising under the cooperative agreement which is not disposed of by agreement shall be decided by INS which shall reduce its decision to writing and mail or otherwise furnish a copy thereof to the Direct Service Provider and its National Coordinating Agency, if applicable. The Designated Entity may appeal the decision to the INS Cooperative Agreement Review Panel.

C. Payments to National Coordinating Agencies and Direct Service Providers in fiscal years 1987, 1988 and 1989:

Payments under this agreement shall be based on two measures: (a) For both National Coordinators and independent Direct Service Providers, numbers of filing fee-supported temporary resident applications accepted for adjudication by INS (i.e., qualifying applications); and (b) for National Coordinators only, start-up efforts supported by agreement application data.

1. Payment for Temporary Resident Applicaton Assistance: Fixed payments of Sixteen ($16.00) dollars for National Coordinators and Fifteen ($15.00) dollars for independent Direct Service Providers will be authorized for each completed, filing fee supported temporary resident application filed with and accepted for adjudication by INS. There will be no payments for applications not requiring INS filing fees.

2. Payment for Start-Up Efforts:

a. National Coordinators may request start-up payment. Approved start-up payments are to be used to: (a) Organize nationwide networks of affiliates to which INS can refer persons seeking application and other assistance; (b) train affiliate staffs to prepare temporary resident applications; and (c) disseminate information materials prepared by INS; (d) provide technical assistance, to monitor and to coordinate their affiliate networks.

b. Start-up funding is available only in federal fiscal year 1987 and will be based on the National Coordinators' reasonable and credible projections of the numbers of qualified applications to be filed with INS; during the temporary residence program. Projections shall be based on the site plans submitted with the cooperative agreement applications which will identify: (1) Specific locations of affiliated sites; (2) number of full-time and part-time staff to be employed in this program; (3) use of volunteers; and (4) application capacities of the sites. The INS GPM will review the projections for reasonableness and accuracy and may adjust them if necessary or appropriate.

c. Upon approval of their applications and as adjusted by INS, National Coordinators will be paid One ($1.00) dollar for each of half the total number of projected applications to be filed with INS. (For example, a National Coordinator projecting a total of 300,000 applications during the program period may be initially paid up to $150,000.)

d. INS will reduce its otherwise normal payment of Sixteen ($16.00) dollars per qualifying application at the rate of at least One ($1.00) dollar per qualifying application until the start-up payment amount has been equaled. Thereafter, National Coordinators will be credited with the established amount of Sixteen ($16.00) dollars per qualifying payment. Actual payment on the sixteenth or extra dollar will be made within sixty (60) days following the conclusion of the temporary residence application period. The extra dollar paid to National Coordinators will support satisfaction of the requirements noted in 1.2.a above.

e. INS reserves the right to demand immediate return of unspent start-up funds or to withhold payment of any start-up funds remaining with INS if a National Coordinator's cooperative agreement is suspended or terminated.

3. Payment Porcedures

a. Upon periodic receipt of INS data the GPM will authorize payment of the appropriate and established fixed amount (either Sixteen ($16.00) or Fifteen ($15.00) dollars as described earlier) for each qualifying application (i.e., applications requiring an INS filing fee which have been filed with and accepted by INS for adjudication). A numerical total of qualifying applications, subtotaled for National Coordinators by affiliated Direct Service Provider sites, along with a notice of scheduling for payment of the approved total, will be sent to the recipient.

b. Payments will be made monthly for qualified applications received by INS during the preceding month. The processing of applications from the time of receipt at the INS processing center to data entry is not expected to exceed sixty (60) days.

c. Payments under this program are considered to be reasonable for services rendered and to have been earned when received. No further accounting for or of these funds is required.

d. Any alleged discrepancy between the recipient and INS on payment amounts shall, within a reasonable time, be submitted to the INS GPM in writing with substantiating documentation.

4. Obligation of Funds

a. Obligation of funds to provide payments on the basis of processed qualifying applications will be made by INS as necessary and appropriate during the term of this agreement. For financial management and other administrative purposes only, based on the projected number of qualified applications to be processed during this program, a specific amount is expected to be obligated and paid to the designated entity party to this agreement.

b. If the designated entity party to this agreement is a National Coordinator whose application for start-up funds has been approved by INS, a specific amount of funds will be obligated upon execution and consistent with the terms of this agreement.

D. Suspension and Termination for Cause

Should a Direct Service Provider be found by INS monitors not to be adequately performing under the terms of this cooperative agreement or promoting, or engaging in, a violation of the immigration laws, the GPM may suspend or terminate the agreement. Notice of intent to suspend or terminate the agreement shall be given in writing to the Site Manager and/or the National Coordinator. After consultation, with opportunity for timely and effective remedial action by the National Coordinating Agency or the Direct Service Provider, whichever is applicable, the GPM may suspend or terminate the agreement. The site will remain under suspension until it is able to demonstrate to the satisfaction of the GPM that remedial actions have been taken. During the period of suspension no reimbursements will be made for applications submitted from that site, nor may the site represent itself or be affiliated in any way with INS. Notice of suspension or termination may be made by INS in the **Federal Register** or the media as deemed necessary or appropriate.

E. Responsibilities

1. The INS staff assigned on-site will be responsible for reviewing applications completed by the Direct Service Provider and interviewing applicants. Applicants will not be arrested at the Direct Service Provider sites becasue of their illegal alien status. Applicants may come to a site to seek information without risk. No INS staff will be assigned to Direct Service Provider sites that decide not to provide facilities for INS adjustment of status interviews.

2. INS recognizes that the designated entity may be engaged in a wide range of other immigration counseling, refugee resettlement, social services and other business activities, and it does not in any way intend to limit the performance of such other activities for the receipt of fees, or donations for these services. Nothing in the cooperative agreement

shall be construed as a prohibition against performances of such other services or activities not related to the legalization/special agricultural worker programs.

III. Compliance With Federal and State Laws

In the performance of the work authorized pursuant to this Cooperative Agreement, the Designated Entity agrees to comply with all applicable federal and state laws, rules and regulations which deal with or relate to the employment by the recipient of the employees necessary for such performance.

In compliance with IRCA and INS regulations, all Designated Entities shall hire only United States citizens or aliens authorized to be employed. Designated Entities shall comply with INS regulations relating to interviewing acceptable prospective employees, checking acceptable documents establishing both identity and employment authorization, and preparing in a timely manner required by INS regulations and maintaining of file Form I–9 "Employment Eligibility Certification" for each employee hired. Form I–9 will be made available for inspection by the Service or the Department of Labor.

IV. Eligible Applicants

For purposes of expediency and efficiency, the INS has set a deadline for the initial review cycle of proposals. Later applications may be reviewed at the discretion of the INS. Eligible applicants are the following: national voluntary agencies and other national organizations and their affiliates; local independent voluntary agencies; community and ethnic organizations; state, county or municipal organizations; farm labor organizations, associations of agricultural employers, and designated persons whom the Attorney General determines are qualified and have substantial experience, demonstrated competence and traditional long-term involvement in the preparation of applications under section 209 or 245 of the Immigration and Nationality Act of Pub. L. 89–372 or Pub. L. 95–145.

In order for a voluntary agency or other national organization, farm labor organization or association of agricultural employers to be designated as a National Coordinator, such organization must demonstrate that it projects to receive and has the capability to process at least 50,000 temporary resident applications during the duration of the legalization and special agricultural workers application periods.

Entities recognized by the Board of Immigration Appeals (BIA) on or before March 2, 1987, are prima facie eligible to participate in the program. Other entities must meet the following eligibility requirements:

A. National Voluntary Agencies and Other National Organizations

1. To be designated as a national voluntary agency or other national organization (social service, religious, ethnic, civic, patriotic, labor, etc.) with established networks of community-based affiliates to participate in the legalization/special agricultural worker programs on a cooperative agreement basis, such organizations must meet the following requirements:

a. It shall have a 501(c) (3), (4), (5), (6), (16) or (20) nonprofit status (i.e., religious, charitable, social service or similar ogranization established in the United States). Such organization must also establish that it:

(1) Assesses only nominal fees or donations and does not charge excessive membership dues for persons given application assistance; and

(2) Has at its disposal adequate immigration knowledge, information and experience, or has experience in immigration counseling or similar counseling for other statutory benefits provided under federal, state or local law, or has a staff with previous immigration counseling experience or experience in similar statutory benefit counseling.

b. A local organization shall be officially affiliated through a subagreement with a recognized, national nonprofit voluntary agency and shall itself meet the following requirements:

It has a nonprofit status as described above. Such organization must also establish that it:

(1) Assesses only nominal fees or donations and does not charge excessive membership dues for persons given application assistance; and

(2) Has at its disposal adequate immigration knowledge, information and experience; or has experience in immigration counseling for other statutory benefits provided under federal, state or local law; or has a staff with previous immigration counseling experience or similar statutory benefit counseling.

2. To reduce the number of cooperative agreements the INS would have to enter into, the INS shall not enter into agreements directly with organizations affiliated with national agencies, unless such national agencies do not enter into a cooperative agreement with the INS or consent to the affiliate's independent application. In order to participate in the legalization/special agricultural worker program the affiliates shall work through their national organization on a subcontract or subordinate agreement basis.

B. Local Independent Voluntary or Community Organization

1. A local independent voluntary agency or community or ethnic organization, not affiliated with a national voluntary agency, shall be designated as a qualified Direct Service Provider if such organization meets the following requirements:

It has a nonprofit status as described above. Such organization must also establish that it:

(a) Assesses only nominal fees or donations and does not charge excessive membership dues for persons given application assistance; and

(b) Has at its disposal adequate immigration knowledge, information and experience; or has experience in immigration counseling for other statutory benefits provided under federal, state or local law, or a staff with previous immigration counseling experience or similar experience in statutory benefit counseling.

2. Affiliates of national organizations that do not enter into a cooperative or other subagreement with their national organization according to section A (2) above shall be considered as local independent organizations if such entities meet the requirements in this section B (1) above.

3. Local independent voluntary agencies shall be permitted to subcontract or enter into agreements with independent voluntary agencies in their areas, provided that latter agencies meet the definition of a qualified voluntary agency as defined in part A above under this Section III.

C. State, County or Municipal Government Agencies

1. An official agency of a state, county or municipal government shall be designated as a Direct Service Provider if such agency meets the following requirements:

a. It makes only nominal charges for services rendered in the application process; and

b. It has at its disposal adequate immigration knowledge, information and experience; or has experience in counseling aliens for other statutory benefits provided under federal, state or local laws; or has a staff with previous immigration counseling experience or similar statutory benefit counseling.

2. A state, county or municipal government agency may include geographical government units in the legalization/special agricultural worker programs provided the geographical government units meet the requirements cited above under part A in this Section III.

C. Farm Labor Organizations

1. A farm labor organization shall be designated as a National Coordinator or a Direct Service Provider if it can establish that:

a. The organization is an entity that provides job training/employment services to migrant and seasonal farm workers, or

b. The organization is an official labor union affiliated with the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) or other similar national labor organization recognized by the National Labor Relations Board or federal, state, county or municipal government.

2. In addition, the organization must also establish that:

a. It has a nonprofit status as described above;

b. It assesses only nominal fees or requests donations for the application process and does not charge excessive dues for persons given application assistance;

c. It has at its disposal adequate immigration knowledge, information and experience, or has experience in counseling aliens for other statutory benefits provided under federal, state or local laws; or has a staff with previous immigration counseling experience or similar statutory benefit counseling.

D. Association of Agricultural Employers

1. An association of agricultural employers shall be designated as a National Coordinator or a Direct Service Provider if it establishes that the organization meets the following defintion:

The term "Association of Agricultural Employers" means any nonprofit or cooperative association of farmers or growers, incorporated or qualified under applicable state law, which recruits, solicits, hires, employs, furnishes or transports any migrant or seasonal agricultural worker.

2. In addition, the organization must also establish that:

a. It has a nonprofit status as described above;

b. It assesses only nominal fees or requests donations for the application process of the legalization/special agricultural worker programs;

c. It has at its disposal adequate immigration knowledge, information and experience, or has experience in counseling aliens for other statutory benefits provided under federal, state, or local laws, or has a staff with previous immigration counseling experience or similar statutory benefit counseling.

E. Persons Designated as Direct Service Providers

1. A person may be designated as a Direct Service Provider if he/she has demonstrated substantial experience, competence and long-term (e.g., ten (10) or more years) involvement in the preparation and submission of applications to the INS for adjustment of status under sections 209 or 245 of the Immigration and Nationality Act or Pub. L. 89–372 or Pub. L. 95–145.

2. Such person must assess only nominal charges to applicants or potential applicants assisted in the legalization/special agricultural worker programs.

3. Such person may function alone or with staff counselors as the owner or proprietor of a private organization which has at its disposal adequate knowledge, information and experience in immigration counseling.

IV. Submission and Review of Applications (Initial Cycle)

A. For consideration in the initial cycle, an original and six copies of the application should be received on or before 4:30 p.m., March 31, 1987, at: Immigration and Naturalization Service, 425 I Street, NW., Room 6230, Washington, DC 20536.

B. Applications from National Coordinators and their affiliates will be reviewed by a panel headed by the Deputy Commissioner, INS. Applications from independent Direct Service Providers will be reviewed by District Directors in whose jurisdiction the Direct Service Providers are located. Final approval and selection authority for all applications rests with the INS Deputy Commissioner. An INS Contracting Officer will execute approved cooperative agreements.

C. Late or incomplete applications may be deferred until other review cycles or accepted for review to assure adequate geographic coverage as solely determined by INS.

D. A pre-application conference will be held on March 6, 1987, beginning at 1:00 p.m., in Room 7111 at the INS Central Office, 425 I Street, NW., Washington, DC 20536.

Questions should be directed to the Government Project Manager—Phone: (202) 633–4123. For copies of the application package and the cooperative agreement contact the GPM.

Dated: February 25, 1987.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service, 425 I Street, NW., Room 6230, Washington, DC 20536.

[FR Doc. 87–4251 Filed 2–27–87; 8:45 am]

BILLING CODE 4410–10–M

Bureau of Prisons

National Institute of Corrections; Revision of Guideline Manual: Financial Management Guidelines for Grantees

Notice is hereby given that the National Institute of Corrections has revised its Guideline Manual: Financial Management Guidelines for Grantees effective November 1986. The manual is now available for issuance.

FOR FURTHER INFORMATION CONTACT: National Institute of Corrections, Financial Management Division, 320 First Street, NW., Room 200, Washington, DC 20534, (202) 724–3110.

Raymond C. Brown,

Director.

[FR Doc. 87–4082 Filed 2–27–87; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–18,963]

Alliance Drop Forge Co., Alliance, OH; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 12, 1987 in response to a worker petition received on January 12, 1987 which was filed on behalf of workers at Alliance Drop Forge Company, Alliance, Ohio.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA–W–18,755). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 3rd day of February 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87–4150 Filed 2–27–87; 8:45 am]

BILLING CODE 4510–30–M

[TA-W-19,120]

ASARCO, Inc., Corpus Christi, TX; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 9, 1987 in response to a worker petition received on February 9, 1987 which was filed by the United Steelworkers of America, Local 5022, on behalf of workers at ASARCO, Incorporated, Corpus Christi, Texas engaged in the production of zinc.

A negative determination applicable to the petitioning group of workers was issued on February 24, 1986 (TA-W-16,400). Production of slab zinc was discontinued in April 1985 and production lines are still closed subsequent to the original investigation. No new information is evident which would result in a reversal of that determination. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 18th day of February 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-4151 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-18,008]

BethEnergy Mines, Inc., Mine No. 78, Ebensburg, PA; Negative Determination Regarding Application for Reconsideration

By an application dated January 6, 1987, the United Mine Workers of America requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers at Mine #78, BethEnergy Mines, Inc., Ebensburg, Pennsylvania. The denial notice will soon be published in the **Federal Register.**

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims that coal was shipped to steel plants of the parent company after 1982 by mixing it with coal from BethEnergy #33 mine. The union also claims that coal production was not greater in the first half of 1986 compared to the same period in 1985.

Findings in the investigation did not substantiate that increased imports of coal contributed importantly to workers separations. Coal production at mine #78 increased in the full year of 1986 compared to 1985. Also, the Department, using official government data on imports, found that U.S. imports of coal are negligible. The ratio of imports to domestic production has been less than one percent since 1981.

Although BethEnergy Mines, Inc., is a subsidiary of Bethlehem Steel Company, none of the coal production at the subject mine has been shipped to any of the steel plants of Bethlehem Steel Company since 1982. Findings also show some mixture of coal from mines #78 and #33; however, this occurred several years ago. The last shipment of mixed coal from both mines occurred in February, 1984 which is outside the scope of this investigation. Section 223(b)(1) of the Trade Act does not permit the certification of workers laid off more than one year prior to the date of the petition. The worker petition was dated August 1, 1986.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 10th day of February 1987.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-4152 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-17,964]

Brunswick Bowling & Billiards, Muskegon, MI; Negative Determination Regarding Application for Reconsideration

By an application dated January 15, 1987, counsel for the International Association of Machinists requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing automatic pinsetting machinery at Brunswick Bowling & Billiards, Muskegon, Michigan. The denial notice was signed on December 19, 1986 and published in the **Federal Register** on January 9, 1987 (52 FR 872).

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Counsel claims that the workers producing automatic pinsetters at the subject plant were adversely affected because of the transfer of automatic pinsetter production to a foreign company-owned facility.

Findings in the investigation did not substantiate that increased imports of automatic pinsetters contributed importantly to worker separations. Brunswick Bowling has a plant in Europe which produces automatic pinsetting machines for the European market. Company officials reported that there was no transfer of production of automatic pinsetter machinery from Muskegon to overseas plants. However, a few automatic pinsetters from the company's European plant are being tested at a company location in Muskegon to determine their feasibility for the U.S. market.

According to company officials, the European automatic pinsetting machinery has not entered the U.S. market for safety reasons. As of this date, company officials at Brunswick have not made a decision regarding the utilization of foreign or domestic sources for the production of automatic pinsettinq machines. Company officials reported that the bowling industry is down and that the long life of automatic pinsetting machinery affects the market.

Conlcusion

After review of the application and investigative findings. I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 13th day of February 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87–4153 Filed 2–27–87; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–17,739]

Levi Strauss & Co., Tyler, TX; Negative Determination Regarding Application for Reconsideration

By an application dated January 5, 1987, the Amalgamated Clothing Workers of America (ACTWU) requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers of Levi Strauss & Company, Tyler, Texas.

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims in its application for reconsideration that the Department did not examine imports of denim jeans in general but looked at imports of only a particular model of denim jeans; consequently, the subject investigation is inconsistent with prior investigations of Levi Strauss plants when a more general import category was used instead of a particular model or style.

Findings in the investigation showed that before the Tyler plant closed in mid-August 1986, it had experienced an increase in sales and production, in quantity and value, of the "501" jeans in 1985 compared to 1984 and in the first seven months of 1986 compared to the same period in 1985. Further, corporate sales of "501" jeans at Levi Strauss & Company increased in quantity and value in fiscal year (FY) 1985 compared to FY 1984 and in FY 1986 compared to FY 1985.

The basis for the Department's denial was a shift in production of the "501" jeans from the Tyler plant to other domestic corporate plants of Levi Strauss & Company. The domestic transfer of production was the result of excess jean producing capacity at Levi Strauss & Company. Company officials confirmed that the production of the "501" jean was not contracted overseas or to other domestic contractors but is made exclusively at domestic plants of Levi Strauss. The transfer of production was so dominant a cause that worker separations would have occurred regardless of the level of imports of the more general category of denim jeans.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 11th day of February 1987.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87–4154 Filed 2–27–87; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–18,993]

LTV Steel Corp.; District Sales Office, Houston, TX; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 20, 1987 in response to a worker petition received on January 20, 1987 which was filed on behalf of workers at the Houston, Texas District Sales Office of LTV Steel Corporation.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA–W–18,780). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 3rd day of February 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87–4155 Filed 2–27–87; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–18,055, Houston, TX, et al.]

Pel-Tex Oil Company, Inc.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 28, 1986 applicable to all worker of Pel-Tex Oil Company, Inc., Houston, Texas TA–W–18,055 Houston, TX; TA–W–18,055A New Orleans, LA; TA–W–18,055B Lafayette, LA; TA–W–18,055C Scott, LA; and TA–W–18,055D Kaplan, LA. The certification notice was published in the **Federal Register** on December 29, 1986 (51 FR 46956).

Based on new information furnished to the Department, the certification notice is amended to properly reflect the complete worker group by including all workers of Pel-Tex Oil Company, Inc., in New Orleans, Lafayette, Scott and Kaplan, Louisiana. These locations closed in April, 1986.

The intent of the certification is to cover all workers of Pel-Tex Company, Inc., in Louisiana and Texas. The amended notice applicable to TA–W–18,055 is hereby issued as follows:

All workers of Pel-Tex Oil Company, Incorporated, Houston, Texas and New Orleans, Louisiana, Lafayette, Louisiana, Scott, Louisiana and Kaplan, Louisiana who became totally or partially separated from employment on or after July 30, 1985 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 18th day of February 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87–4156 Filed 2–27–87; 8:45 am]

BILLING CODE 4510–30–M

[A–W–18,487 et al.]

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Philips ECG, Inc., et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period February 9, 1987—February 13, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with

articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–18,487; Philips ECG, Inc., Seneca Falls, NY

TA–W–18,663; Interstate Drop Forge Co., Milwaukee, WI

TA–W–18,576; Curtis Machine Co., Inc., Washington, PA

TA–W–18,259; Dover Elevator Systems, Cincinnati, OH

TA–W–18,691; Medalist Steel Products, Milwaukee, WI

TA–W–18,383; Parker Hannifin Corp., Waverly, OH

TA–W–18,699; Cann & Saul Steel Co., Royersford, PA

TA–W–18,199; Carrier Corp., Syracuse, NY

TA–W–18,482; Esselte-Pendeflex (Formerly Known as Boorum & Pease), Elizabeth, NJ

TA–W–18,219; Gubelman Charts, Newark, NJ

TA–W–18,372; Crouse-Hinds Electrical Construction Materials, A Division of Cooper Industries, Inc., Syracuse, NY

TA–W–18,525; Fox Brady Division, Piper Industries, Inc., Appleton, WI

TA–W–18,688; Pam Manufacturing Corp., Bayonne, NJ

TA–W–18,670; Weinbrenner Shoe Co., Antigo, WI

TA–W–18,710; J&A, North Bergen, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–18,832, Triumph-Lor, Inc., Odessa, TX
Aggregate U.S. imports of oilfield equipment and machinery are negligible.

TA–W–18,833; Triumph-Lor, Inc., Lafayette, LA
Aggregate U.S. imports of oilfield equipment and machinery are negligible.

TA–W–18,835; H & S Valve, Odessa, TX
Aggregate U.S. imports of oilfield equipment and machinery are negligible.

TA–W–18,836; H & S Valve, Corpus Christi, TX
Aggregate U.S. imports of oilfield equipment and machinery are negligible.

TA–W–18,837; H & S Valve, Weatherford, TX
Aggregate U.S. imports of oilfield equipment and machinery are negligible.

TA–W–18,838; H & S Valve, Baton Rouge, LA
Aggregate U.S. imports of oilfield equipment and machinery are negligible.

TA–W–18,827; Badlands Shot Hole Service, Dickinson, ND
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,828; Grace Bomac Drilling, Dickinson, ND
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,830; Conner Coating & Painting, Odessa, TX
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,834; Geosearch, Inc., Great Bend, KS
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,839; Poly Bearing, Inc., Midland, TX
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,604; Crucible Materials Corp., Trent Tube Div., East Troy, WI
The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–18,866; Cardinal Drilling, Billings, MT
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,948; J&D Liquid Propane Service, Dickinson, ND
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,949; Prairie Oil Company, Dickinson, ND
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,950; Prairie Truck Center Dickinson, ND
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,951; J&D, Inc., Dickinson, ND
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,958; Gaffney Cline & Associates, Dallas, TX
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,323; USX Corp., Pittsburgh Service Center, Pittsburgh, PA
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,323A, USX Corp., Southern Area Purchasing, Houston, TX
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,844; Ranger Fuel Corp., Sabine (Beckley #2) Mine, Beckley, WV
Aggregate U.S. imports of coal are negligible.

TA–W–18,889; Umetco Minerals Corp., Blanding Mine, Blanding, UT
U.S. imports of ferrovanadium declined absolutely and relative to domestic production in 1985 compared to 1984 and declined absolutely in the first nine months of 1986 compound to the same period in 1985.

TA–W–19,016; J.D.L., Inc., Lafayette, LA
U.S. imports of oilfield machinery are negligible.

TA–W–19,026; Cliff Mock Co., Conroe, TX
U.S. imports of liquid measurement meters are negligible.

TA–W–18,868; The Innovators, Midland, TX
Aggregate U.S. imports of oilfield equipment are negligible.

TA–W–18,053; McEvoy Willis, Tyler, TX
Aggregate U.S. imports of oilfield equipment are negligible.

TA–W–18,996; Joy Manufacturing Co., Richmond, TX
The ratio of imports to domestic shipment of oilfield machinery and equipment is less than one percent.

TA–W–19,068; BB Robinson, Jr., Wichita, Falls, TX
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–19,072; IS&S, Inc.. Odessa, TX
The workers' firm does not produce an article as required for

certification under section 222 of the Trade Act of 1974.

TA-W-19,073; Oil Field Rental Service Co., Van Vleck, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,824; Yellow Dog Rental Dickinson, ND

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,826; Roch Service, Wichita, KS

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,845; Schlumberger Well Service, Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,846; Western Oilfield Service, Inc., Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,847; American Mud Logging, Odessa, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,848; Baker & Taylor Drilling Co., Amarillo, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,849; Bethlehem Supply, Dickinson, ND

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,850; Bethlehem Supply, Tioga, ND

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,840; Consolidated Coal, Jenkinjones #4 Mine, Jenkinjones, WV

U.S. imports of coal are negligible.

TA-W-19,015; Analex, Aurora, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,019; French Tool and Supply Co., Odessa, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,796; Union Railroad Co., Monroeville, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,028; Dowell Schlumberger, Inc., Tulsa, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,892; Bessemer & Lake Erie Railroad Co., Greenville Shop, Greenville, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,729; Eastman Kodak Co., Colorado Division, Windsor, CO

The investigation revealed that criterion (1) has not been met. Employment increased in 1985 compared to 1984 and did not decline significantly in 1986 compared to 1985.

TA-W-18,842; Beckley Coal Mining Co., Beckley Coal Mine, Glen Daniels, WV

U.S. imports of coal are negligible.

TA-W-19,036; International Titanium, Inc., of Washington, Moses Lake, WA

U.S. imports of titanium sponge, waste and scrap metal decline absolutely and relative to domestic production in 1985 compared to 1984.

TA-W-18,978; Saturn Fuels Limited, Uniontown, PA

U.S. imports of coal are negligible.

TA-W-19,056; Southwest Oilfield Products, Houston, TX

U.S. imports of oilfield machines are negligible.

TA-W-19,065; Red Snapper Rental, Midland, TX

U.S. imports of oilfield machines are negligible.

TA-W-18,772; French Tool and Supply Truck Fabricating Dept., Odessa, TX

U.S. imports of oilfield machinery are negligible.

TA-W-18,536; Quaker State Oil Refining Corp., Titusville, PA

U.S. imports of lubricants gasoline and dry natural gas declined absolutely and relative to U.S. shipments in January through September 1986 compared to the same period one year period.

TA-W-19,064; M-I Drilling Fluids, Houston, TX

U.S. imports of drilling fluid are negligible.

TA-W-18,841; Consoldiation Coal Co., Amonate #31 Mine, Amonate, VA

U.S. imports of coal are negligible.

Affirmative Determinations

TA-W-18,287; Chevron, USA, Inc., Exploration, Land and Production Operation, Southern Region, Midland, TX

A certification was issued covering all workers of the firm separated on or after September 16, 1985.

TA-W-18,287A; Chevron, USA, Inc., Exploration, Land and Production Operation, Southern Region, Texas (State Wide)

A certification was issued covering all workers of the firm separated on or after September 16, 1985.

TA-W-18,287B; Chevron, USA, Inc., Exploration, Land and Production Operation, Southern Region, Arizona (State Wide)

A certification was issued covering all workers of the firm separated on or after September 16, 1985.

TA-W-18,287C; Chevron, USA, Inc., Exploration, Land & Production Operations, Southern Region, New Mexico (State Wide)

A certification was issued covering all workers of the firm separated on or after September 16, 1985.

TA-W-18,287D; Chevron, USA, Inc., Exploration, Land & Production Operations Southern Region, Louisiana (State Wide)

A certification was issued covering all workers of the firm separated on or after September 16, 1985.

TA-W-18,287E; Chevron, USA, Inc., Exploration, Land and Production Operations, Southern Region, Mississippi (State Wide)

A certification was issued covering all workers of the firm separated on or after September 16, 1985.

TA-W-18,287F; Chevron, USA, Inc., Exploration, Land and Production Operation Southern Region, Alabama (State Wide)

A certification was issued covering all workers of the firm separated on or after September 16, 1985.

TA-W-18,287G; Chevron, USA, Inc., Exploration, Land Production Operation Southern Region, Georgia (State Wide)

A certification was issued covering all workers of the firm separated on or after September 16, 1985.

TA-W-18,539; U.S. Steel Mining Co., Gary #9 Mine, Felbert, WV

A certification was issued covering all workers of the firm separated on or after October 22, 1985.

TA-W-18,622; U.S. Steel Mining Co., Alpheus Cleaning and Preparation

Plant and District Maintenance Workers, Gary, WV
A certification was issued covering all workers of the firm separated on or after October 31, 1985.

TA-W-18,623; U.S. Steel Mining Co., Gary #2 Mine, Wilcoe, WV
A certification was issued covering all workers of the firm separated on or after October 31, 1985.

TA-W-18,624; U.S. Steel Mining Company, Gary #4 Mine, Thorpe, WV
A certification was issued covering all workers of the firm separated on or after October 31, 1985.

TA-W-18,625; U.S. Steel Mining Company, Gary 14. Mine and Contour Shop Munson, WV
A certification was issued covering all workers of the firm separated on or after October 31, 1985.

TA-W-18,626; U.S. Steel Mining Co., Seneca, Maitland, WV
A certification was issued covering all workers of the firm separated on or after October 31, 1985.

TA-W-18,489; Uniroyal-Goodrich Tire Co., Eau-Claire, WI
A certification was issued covering all workers of the firm separated on or after October 8, 1985.

TA-W-18,790; General Chemical Corp., Owensville, MO
A certification was issued covering all workers of the firm separated on or after December 8, 1985.

TA-W-19,008; General Chemical Corp., East St. Louis, IL
A certification was covering all workers of the aluminum sulfate processing Department of the subject firm separated on or after January 6, 1986.

TA-W-18,522; Gold Medal, Inc., Racine, WI
A certification was issued covering all workers of the firm separated on or after October 17, 1985.

TA-W-18,757; Sabine Corp., Midland, TX
A certification was issued covering all workers of the firm separated on or after November 24, 1985.

TA-W-18,746; Katos-Kutztown Sportswear, Kutztown, PA
A certification was issued covering all workers of the firm separated on or after November 19, 1985.

TA-W-18,637; Eltec Instruments, Inc., Daytona Beach, FL
A certification was issued covering all workers of the firm separated on or after November 3, 1985.

TA-W-18,768; Switches, Inc., Logansports, IN
A certification was issued covering all workers of the firm separated on or after December 1, 1985.

TA-W-18,822; NSC International, Hot Springs, AR
A certification was issued covering all workers of the firm separated on or after December 2, 1985.

TA-W-18,542; Sheffield Footwear Mfg, Miami, FL
A certification was issued covering all workers of the firm separated on or after October 20, 1985 and before January 31, 1987.

TA-W-18,801; Voyager Emblem Corp., Sanborn, NY
A certification was issued covering all workers of the firm separated on or after December 8, 1985.

TA-W-18,262; Bell & Howell Co., Audio-Visual Div., Chicago, IL
A certification was issued covering all workers related to the production of 16 mm film projectors separated on or after September 25, 1985.

TA-W-18,466; Texaco Producing, Inc., Bellaire, TX
A certification was issued covering all workers of the firm separated on or after September 25, 1985.

TA-W-18,466A; Texaco, Inc., Petroleum Exploration and Production Group, All Locations in the State of Texas (Headquartered in Houston, TX)
A certification was issued covering all workers of the firm separated on or after September 25, 1985.

TA-W-18,802; Franks Sportswear Co., Inc., Boston, MA
A certification was issued covering all workers of the firm separated on or after December 11, 1985 and before October 26, 1986.

TA-W-19,088; Cowden Manufacturing Co., Springfield, KY
A certification was issued covering all workers of the firm separated on or after December 31, 1985 and before August 30, 1986.

TA-W-18,217; Cowden Manufacturing Co., Stanford, KY
A certification was issued covering all workers of the firm separated on or after September 3, 1985 and before August 30, 1986.

TA-W-18,169; Cowden Manufacturing Co., Mt. Sterling, Ky
A certification was issued covering all workers of the firm separated on or after September 10, 1985 and before November 1, 1986.

TA-W-18,381; Chevron, USA, Inc., Exploration, Land and Production Operations, Northern Region, Glendale, CO
A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381A; Chevron, USA, Inc., Exploration, Land and Production Operation, Northern Region, Colorado (State Wide)
A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381B; Chevron, USA, Inc., Exploration, Land and Production Operations, Northern Region, Montana (State Wide)
A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381C; Chevron, USA, Inc., Exploration, Land and Production Operations, Northern Region, Wyoming (State Wide)
A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381D; Chevron, USA, Inc., Exploration, Land and Production Operations, Northern Region, Utah (State Wide)
A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381E; Chevron, USA, Inc., Exploration, Land and Production Operations, Northern Region, Texas (State Wide)
A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381F; Chevron, USA, Inc., Exploration, Land and Production Operations, Northern Region, North Dakota (State Wide)
A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381G; Chevron, USA, Inc., Exploration Land and Production Operations, Northern Region, New Mexico (State Wide)
A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381H; Chevron USA, Inc., Exploration Land and Production Operations, Northern Region, Kansas (State Wide)
A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381I; Chevron, USA, Inc., Exploration Land and Production Operations, Northern Region, Oklahoma (State Wide)
A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381J; Chevron USA, Inc., Exploration Land and Production Operations, Northern Region, Michigan (State Wide)
A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381K; Chevron, USA, Inc., Exploration Land and Production

Operations, Northern Region, Illinois (State Wide)

A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381L; Chevron USA, Inc., Exploration Land and Production Operations Northern Region, Arkansas (State Wide)

A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381M; Chevron USA, Inc., Exploration Land and Production Operations, Northern Region, West Virginia (State Wide)

A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,381N; Chevron USA, Inc., Exploration Land and Production Operations Northern Region, Pennsylvania (State Wide)

A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,439; Hermann Loewenstein, Inc., Johnstown, NY

A certification was issued covering all workers of the firm separated on or after October 9, 1985 and before November 3, 1986.

TA-W-18,690; Furniture Craftsmen, Inc., Gardner, MA

A certification was issued covering all workers of the firm separated on or after October 18, 1985.

TA-W-18,385; Warner & Swasey Co., Turning Division, Solon, OH

A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-18,714; Uniroyal Goodrich Tire Co., Akron OH

A certification was issued covering all workers in the following departments of the firm separated on or after October 31, 1985.

Departments and Number

Research and Development—6125; 6130; 6132; 6134.
Purchasing—0553.
Marketing—0667.
Quality Assurance—6007.
Planning and Distribution—0606.

I hereby certify that the aforementioned determinations were issued during the period February 9, 1987–February 13, 1987. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor 601 D Street NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 17, 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-4157 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-17,870]

Tuscaloosa Energy Corp.; Republic Mine; Elkhorn City, KY; Affirmed Determination Regarding Application for Reconsideration

The United Mine Workers of America, after being granted a filing extension, requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of former workers at Tuscaloosa Energy Corporation. Republic Mine, Elkhorn, Kentucky. The determination was published in the **Federal Register** on October 31, 1986 (51 FR 39814).

The union claimed. among other things, that the Tuscaloosa Energy Corporation's Republic Mine in Elkhorn City, Kentucky was producing metallurgical coal in 1986 as part of the integrated steel operations of its parent company, the LTV Steel Corporation.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 5th day of February, 1987.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87-4158 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-30-M

Revised Schedule of Remuneration for the UCX Program

Under section 8521(a)(2) of Title 5 of the United States Code, the Secretary of Labor is required to issue from time to time a Schedule of Remuneration specifying the pay and allowances for each pay grade of members of the military services. The schedules are used to calculate the base period wages and benefits payable under the program of Unemployment Compensation for Ex-Servicemembers (UCX Program).

The revised schedule published with this Notice reflects increases in military pay and allowances which were effective in January 1987. The revised schedule was issued on February 4, 1987, in Unemployment Insurance Program Letter No. 7-87 and is effective with respect to UCX first claims filed on or after April 5, 1987.

Accordingly, the following new Schedule of Remuneration, issued pursuant to 5 U.S.C. 8521(a)(2) and 20 CFR 614.12, applies to "First Claims" for UCX which are effective on and after April 5, 1987.

Pay grade	Monthly rate
(1) Commissioned officers:	
O-10	$7,150
O-9	7,150
O-8	7,150
O-7	6,476
O-6	5,430
O-5	4,487
O-4	3,745
O-3	3,072
O-2	2,425
O-1	1,826
(2) Warrant officers:	
W-4	3,400
W-3	2,851
W-2	2,444
W-1	2,033
(3) Enlisted personnel:	
E-9	3,123
E-8	2,644
E-7	2,285
E-6	1,949
E-5	1,650
E-4	1,391
E-3	1,230
E-2	1,133
E-1	990

The publication of this new Schedule of Remuneration does not revoke any prior schedule or change the period of time any prior schedule was in effect.

Signed at Washington, DC, on February 20, 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 87-4159 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-87-5-C]

Amax Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Amax Coal Company, P.O. Box E, Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Harco Mine (I.D. No. 11-02848) located in Saline County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery nips to machine-mounted battery receptacles on

permissible, mobile battery-powered machines.

2. Petitioner states that having power components locked in place in the eventuality of electrical shorts and possible fire would result in a diminution of safety for the miners affected.

3. As an alternate method, petitioner proposes to weld a bracket with a hinge on it, and cut an arch out of the bracket, which will enable the bracket to fit securely down over the battery nips. This will assure that the nips will not become loose due to vibration or accidentally being jarred.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-4160 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-9-C]

Clinchfield Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Clinchfield Coal Company, P.O. Box 4000, Lebanon, Virginia 24266 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its McClure No. 1 Mine (I.D. No. 44-04251) located in Dickenson County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Due to the structural characteristics of the mine roof in certain areas of the intake and the abutment pressures created from the adjacent mined-out longwall panel, certain areas cannot be safely examined.

3. As an alternate method, petitioner proposes to establish an evaluation checkpoint at the entrance of the No. 3 entry of 2-Left off Nealy Mains where a certified person will make weekly examinations of the air quantity passing through the entry, as well as tests for methane and oxygen deficiency. The results will be recorded in a book. A telescoping probe used in conjunction with a digital readout methane gas detector will be provided near the tail of the longwall. This will allow for frequent examinations for methane gas in the intake split of air without exposing the examiner to the hazardous roof conditions in the tailgate entry.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-4161 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-11-C]

The Florence Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

The Florence Mining Company, 655 Church Street, Box 729, Indiana, Pennsylvania 15701 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Florence No. 1 Mine (Black Lick Portal) (I.D. No. 36-00924), its Florence No. 1 Mine (Robinson Portal) (I.D. No. 36-00925), and its Florence No. 2 Mine (I.D. No. 36-02448), all located in Indiana County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. A metal retainer device bolted to the battery receptacles with the plug secured by a hand-operated, spring-loaded pin attached to the retainer device to secure battery plugs to machine-mounted battery receptacles on mobile, permissible battery powered vehicles will be used.

3. Petitioner states that the spring-loaded metal locking device will be easier to maintain than padlocks because there are no keys to be lost or broken, there will be no lost padlocks and dirt cannot get into the workings as with a padlock.

4. Operators of mobile, permissible battery powered vehicles affected by this modification will be trained in the proper use and operation of the spring-loaded metal locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-4162 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-13-C]

Helvetia Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Helvetia Coal Company, Box 729, Indiana, Pennsylvania 15701 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Lucerne No. 6 Mine (I.D. No. 36-00917), its Lucerne No. 8 Mine (I.D. No. 36-04597), and its Lucerne No. 9 Mine (I.D. No. 36-05374), all located in Indiana County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. A metal retainer device bolted to the battery receptacles with the plug secured by a hand-operated, spring-loaded pin attached to the retainer device to secure battery plugs to machine-mounted battery receptacles on mobile, permissible battery powered vehicles will be used.

3. Petitioner states that the spring-loaded metal locking device will be easier to maintain than padlocks because there are no keys to be lost or broken, there will be no lost padlocks and dirt cannot get into the workings as with a padlock.

4. Operators of mobile, permissible battery powered vehicles affected by this modification will be trained in the proper use and operation of the spring-loaded metal locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-4163 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-8-C]

Keystone Coal Mining Corp.; Petition for Modification of Application of Mandatory Safety Standard

Keystone Coal Mining Corporation, 655 Church Street, Indiana, Pennsylvania 15701 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor warning device systems; installation; minimum requirements) to its Urling No. 2 Mine (I.D. No. 36-04853) located in Indiana County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. In a previously granted petition (M-84-172-C), petitioner proposed to use the belt entry air to ventilate active working places.

3. As an alternate method, petitioner proposes to install an early warning fire detection system using a low-level carbon monoxide (CO) detection system with specific conditions as previously outlined in M-84-172-C.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-4164 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-14-C]

Keystone Coal Mining Corp.; Petition for Modification of Application of Mandatory Safety Standard

Keystone Coal Mining Corporation, 655 Church Street, Indiana, Pennsylvania 15701 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Emilie No. 1 & 2 Mine (I.D. No. 36-00821), its Jane No. 1 & 2 Mine (I.D. No. 36-00823), its Margaret No. 11 Mine (I.D. No. 36-05038), its Emilie No. 4 Mine (I.D. No. 36-06018) all located in Armstrong County, Pennsylvania; and its Urling No. 1 Mine (I.D. No. 36-04852), its Urling No. 2 Mine (I.D. No. 36-04853), and its Urling No. 3 Mine (I.D. No. 36-05658), all located in Indiana County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. A metal retainer device bolted to the battery receptacles with the plug secured by a hand-operated, spring-loaded pin attached to the retainer device to secure battery plugs to machine-mounted battery receptacles on mobile, permissible battery powered vehicles will be used.

3. Petitioner states that the spring-loaded metal locking device will be easier to maintain than padlocks because there are no keys to be lost or broken, there will be no lost padlocks and dirt cannot get into the workings as with a padlock.

4. Operators of mobile, permissible battery powered vehicles affected by this modification will be trained in the proper use and operation of the spring-loaded metal locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-4165 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-18-C]

Little Falls Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Little Falls Mining Co., Inc., 202 E. High Street, Kingwood, West Virginia

26537 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Little John Mine (I.D. No. 46–06902) located in Monongalia County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded metal locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–4166 Filed 2–27–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–87–20–C]

Mohigan Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Mohigan Mining Co., Inc., 202 E. High Street, Kingwood, West Virginia 26537 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Flaggy Meadow Mine (I.D. No. 46–04639) located in Monongalia County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded metal locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner request a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–4167 Filed 2–27–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–87–12–C]

O'Donnell Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

O'Donnell Coal Company, 655 Church Street, Indiana, Pennsylvania 15701 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its O'Donnell No. 3 Mine (I.D. No. 36–01343) and its O'Donnell No. 4 Mine (I.D. No. 36–05032), both located in Indiana County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. A metal retainer device bolted to the battery receptacles with the plug secured by a hand-operated, spring-loaded pin attached to the retainer device to secure battery plugs to machine-mounted battery receptacles on mobile, permissible battery powered vehicles will be used.

3. Petitioner states that the spring-loaded metal locking device will be easier to maintain than padlocks because there are no keys to be lost or broken, there will be no lost padlocks and dirt cannot get into the workings as with a padlock.

4. Operators of mobile, permissible battery powered vehicles affected by this modification will be trained in the proper use and operation of the spring-loaded metal locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health

Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-4168 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-17-C]

Preston Energy, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Preston Energy, Inc., 202 E. High Street, Kingwood, West Virginia 26537 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Big Joe Mine (I.D. No. 46-01887), its Big John Mine (I.D. No. 46-06789) and its Sunshine Mine (I.D. No. 46-04271), all located in Preston County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded metal locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner request a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-4169 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-16-C]

Sea "B" Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Sea "B" Mining Company, P.O. Box 4000, Lebanon, Virginia 24266 bas filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Seaboard No. 2 Mine (I.D. No. 44-03479) located in Tazewell County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mining height ranges from 37 to 57 inches, with undulations.

3. Petitioner states that the use of canopies on the mine's electric face equipment would result in a diminution of safety to the miners affected because the canopies could dislodge roof supports, decrease the equipment operator's visiblity and create discomfort to the equipment operator, increasing chances of an accident.

4. For these reasons, petitioner requests a modification of the standard in mining heights less than 54 inches.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-4170 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-19-C]

Statue Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Statue Mining Co., Inc., 202 E. High Street, Kingwood, West Virginia 26537 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Liberty Mine (I.D. No. 46-06353) located in Preston County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded metal locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner request a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson

Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-4171 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-6-C]

Tunnelton Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Tunnelton Mining Company, P.O. Box 367, Edensburg, Pennsylvania 15931 has filed a petition to modify the application of 30 CFR 75.1100-3 (condition and examination of firefighting equipment) to its Marion Mine (I.D. No. 36-00929) located in Indiana County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all firefighting equipment be maintained in a usable and operative condition.

2. Petitioner states that due to the extremely cold weather experienced during the winter months, the waterline used for fire protection along the slope belt freezes and is inoperative.

3. As an alternate method, petitioner proposes to install a dry waterline along the slope belt for fire protection from October 10 through May 1. During the remaining months of the year, the waterline will be kept charged. In support of this request, petitioner states that:

(a) The dry waterline will be equipped with an automatic actuating valve which will be connected to the automatic fire sensors;

(b) The automatic fire sensors, when activated, will send a signal to the actuator valve, causing the valve to open allowing the waterline to be pressurized with water for fire protection. A manual bypass valve will also be installed in the system to allow the waterline to be pressurized;

(c) All persons in the vicinity of the slope will be instructed as to the operation of the dry pipe system;

(d) Sufficient water will be available for the dry pipe system at all times and a pressure gauge will be installed to indicate that a supply of water under pressure is available to the electric and manual valves;

(e) The dry pipe system will be purged of any water left in the system as a result of testing or actuation of the system to prevent ice from accumulating in the waterlines and valves; and

(f) The valve will be protected from freezing and will be easily accessible for inspection or manual operations.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-4172 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-3-C]

United States Fuel Co.; Petition for Modification of Application of Mandatory Safety Standard

United States Fuel Company, P.O. Box A, Hiawatha, Utah 84527 has filed a petition to modify the application of 30 CFR 75.1701 (abandoned areas, adjacent mines; drilling of boreholes) to its King 4 Mine (I.D. No. 42-00098) located in Carbon County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that whenever any working place approaches within 50 feet of abandoned areas in the mine as shown by surveys made and certified by a registered engineer or surveyor, or within 200 feet of any other abandoned areas of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within 200 feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least 20 feet in advance of the working face of such working place and shall be continually maintained to a distance of at least 10 feet in advance of the advancing working face.

2. Petitioner seeks a modification of the standard to allow a breakthrough between 13 East to 14 East Sections and the extraction of a 140-foot barrier of coal without drilling boreholes.

3. The affected area is a 140-foot barrier of coal between the 13 East and 14 East Sections. The five-year plan calls for any future mining in the northern reserves to be conducted in the "A" or lower seam. Petitioner believes that the 140-foot barrier must be removed due to the extremely high stresses that will be transferred onto the lower seam.

4. In over 75 years of mining no methane gas has ever been detected which indicates that there will be no dangerous buildup of gas encountered.

5. As an alternate method, petitioner states that:

(a) Starting from the existing bleeder entries, entries will be developed to the north on 45-foot centers, leaving a 25-foot pillar;

(b) The breakthrough from the 14 East Section to the 13 East Section area will be with the farthest right entry at all times, only 25 feet from the cave line;

(c) The gob area will be ventilated within a distance of 25 feet from the proposed breakthrough;

(d) The presence of a high pressure fresh air side behind the miners in the 14 East Section, and a low pressure return air side in the gob area of the 13 East Section will assure positive ventilation in that direction and protect the miners; and

(e) Mining will be done with a remote control miner, which will ensure that no one will be within 40 feet of the face when the breakthrough is made.

6. The 13 East Section was mined without encountering any water until the last 350 feet of the retreat portion. At that point the elevations were such that the water drained away from the section and did not accumulate.

7. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1987. Copies of the petition are available for inspection at that address.

Dated: February 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-4173 Filed 2-27-87; 8:45 am]

BILLING CODE 4510-43-M

COMMISSION ON MERCHANT MARINE AND DEFENSE

Meeting

SUMMARY: The Commission on Merchant Marine and Defense was established by Pub. L. 98-525 (as amended), and the Commission was constituted in December 1986. The Commission's mandate is to study and report on problems relating to transportation of cargo and personnel for national defense purposes in time of war or national emergency, the capability of the Merchant Marine to meet the need for such transportation, and the adequacy of the shipbuilding mobilization base to support naval and merchant ship construction. In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the Commission announces the following meeting:

Dates and times: Monday, March 16, 1987; Beginning 9:00 a.m.; Tuesday, March 17, 1987; Beginning 9:00 a.m.

PLace: Suite 520, 4401 Ford Avenue, Alexandria, Virginia, 22301-0268;

Type of meeting: Closed.

Contact person: Allan W. Cameron, Executive Director, Commission of Merchant Marine and Defense, Suite 520, 4401 Ford Avenue, Alexandria, Virginia 22301-0268.

Purpose of meeting: To receive additional information pertaining to the needs of the national defense for the Merchant Marine and the shipbuilding industry, and to discuss and deliberate facts and opinions obtained from briefings and public hearings.

SUPPLEMENTARY INFORMATION: The executive meetings of the Commission will be closed to the public pursuant to 5 U.S.C. 552b(c)(1) and (C)(9)(B) in the interests of national security and to protect proprietary information provided to the Commission in confidence. A public meeting and hearing, announced separately, will be held at 2:00 p.m. on Tuesday, March 17, 1987.

Allan W. Cameron,

Executive Director, Commission on Merchant Marine and Defense.

[FR Doc. 87-4297 Filed 2-27-87; 8:45 am]

BILLING CODE 3820-01-M

Meeting

SUMMARY: The Commission on Merchant Marine and Defense was established by Pub. L. 98-525 (as amended), and the Commission was constituted in December 1986. The Commission's mandate is to study and report on problems relating to transportation of cargo and personnel for national defense purposes in time of war or national emergency, the capability of the Merchant Marine to meet the need for such transportation, and the adequacy of the shipbuilding mobilization base to support naval and merchant ship construction. In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the Commission announces the following meeting:

Dates and times: Monday, March 16, 1987; Beginning 2:00 p.m.

Place: Federal Aviation Administration auditorium, Federal Building 10A, 800 Independence Avenue SW., Washington, DC.

Type of meeting: Open.

Contact person: Allan W. Cameron, Executive Director, Commission on Merchant Marine and Defense, Suite 520, 4401 Ford Avenue, Alexandria, Virginia 22301-0268.

Purpose of meeting: To receive and consider statements on the perspective of the operators of liner ships on the problem of providing adequate shipping to support the defense needs of the United States. Witnesses presenting oral testimony have been invited by the Commission to appear, and will represent the major operators and organizations of the liner shipping industry.

SUPPLEMENTARY INFORMATION: Other interested persons are invited to submit written statements about the liner shipping industry and the shipping needs of United States defense policy. Written statements should be received by the close of business on March 11, 1987. All written submissions will be made available for inspection by interested parties, and may be published as part of the Commission's proceedings. All submissions should be addressed to the Executive Director at the Commission's office in Alexandria, Virginia.

Allan W. Cameron,

Executive Director, Commission on Merchant Marine and Defense.

[FR Doc. 87-4298 Filed 2-27-87; 8:45 am]

BILLING CODE 3820-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 87-20]

NASA Advisory Council, Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Review Team on Computational Fluid Dynamics (CFD).

DATE AND TIME: March 19, 1987, 8:30 a.m. to 3:30 p.m.

ADDRESS: Room 625, Federal Office Building 10B, National Aeronautics and Space Administration Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. R. A. Graves, Code RF, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2828.

SUPPLEMENTARY INFORMATION: The NAC Aeronautics Advisory Committee (AAC) was established to provide overall guidance and direction to the aeronautics research and technology activities in the Office of Aeronautics and Space Technology (OAST). Special ad hoc teams were formed to address specific topics. The ad hoc team on CFD Validation, chaired by Dr. Richard Bradley, is comprised of 10 members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the team members and other participants).

Type of Meeting: Open.

Agenda:

March 19, 1987

8:30 a.m.—Review Final Report Draft.

9:30 a.m.—Discuss and Compile Final Conclusions and Recommendations.

1 p.m.—Revise Final Report.

2:30 p.m.—Finalize Report Format.

3:30 p.m.—Adjourn.

Dated: February 24, 1987.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 87-4282 Filed 2-27-87; 8:45 am]

BILLING CODE 7510-01-M

[Notice (87-21)]

NASA Advisory Council, Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Ad Hoc Task Team on Spacecraft Power for Future Missions.

DATE AND TIME: March 24, 1987, 8:30 a.m. to 4 p.m.

ADDRESS: Room 647, Federal Office Building 10B, National Aeronautics and Space Administration Headquarters, Washington, DC 20546.

FURTHER INFORMATION CONTACT: Mr. Robert Wasel, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2855.

SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee (SSTAC) was established to provide overall guidance and direction to the Office of Aeronautics and Space Technology (OAST). Special ad hoc teams were formed to address specific topics. The ad hoc team on Spacecraft Power for Future Missions, chaired by Dr. Beno Sternlicht, is comprised of six members. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons including the team members and other participants).

Type of meeting: Open.

Agenda:

March 24, 1987

8:30 a.m.—Introduction, Discussion of Objectives.

9 a.m.—NASA Program Presentation.

1 p.m.—Ad Hoc Committee Discussion.

3 p.m.—Conclusions, Recommendations.

4 p.m.—Adjourn.

Dated: February 24, 1987.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 87-4283 Filed 2-27-87; 8:45 am]

BILLING CODE 7510-01-M

[Notice (87-18)]

NASA Advisory Council, Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Reliability, Diagnostics and Quality Assurance Ad Hoc Task Teeam.

DATE AND TIME: March 10, 1987, 8:30 a.m. to 4:30 p.m.; March 11, 1987, 8:30 a.m. to 12:30 p.m.

ADDRESS: Room 625, Federal Office Building 10B, National Aeronautics and Space Administration Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John Smith, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2834.

SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee was established to provide overall guidance and direction to the space systems research and technology activities in the Office of Aeronautics and Space Technology (OAST). The purpose of the team is to ensure that the technology program has the necessary design base to support development of the predictive techniques, design tools, and test methods required for future speceflight missions. It is imperative that the meeting be held on these dates to accommodate the scheduling priorties of the key participants. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the task team members and other participants).

Type of Meeting: Open.

Agenda:

March 10, 1987

8:30 a.m.—Complete the review and assessment of the OAST technology program which contributes to the development of predictive techniques, design tools, and test methods for support of future spaceflight missions.

4:30 p.m.—Adjourn.

March 11, 1987

8:30 a.m.—Discussion and preparation of final report.

12:30 p.m.—Adjourn.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 87-4284 Filed 2-27-87; 8:45 am]

BILLING CODE 7510-01-M

[Notice 87-19]

NASA Wage Committee; Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Wage Committee.

Date and time: March 19, 1987, 1:30 p.m. to 3:00 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 5092, Federal Building 6, 400 Maryland Avenue, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah C. Green, Code NPC, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2622.

SUPPLEMENTARY INFORMATION: The Committee's primary responsibility is to consider and make recommendations to the NASA Director, Personnel Programs Division, on all matters involved in the development and authorization of a Wage Schedule for the Cleveland, Ohio, wage area, pursuant to Pub. L. 92-392. The Committee, chaired by Ms. Deborah Green consists of six members. During this meeting, the Committee will consider and make recommendations to the Director, Personnel Programs Division, National Aeronautics and Space Administration, on all matters involved in the development and authorization of a wage schedule for the Cleveland, Ohio, wage area pursuant to Pub. L. 92-392. Discussions of these matters in a public session would constitute release of confidential commercial and financial information obtained from private industry. Since the session will be concerned with matters listed in 5 U.S.C. 552b(c)(4), it has been determined that this meeting will be entirely closed to the public. However, members of the public who may wish to do so, are invited to submit material in writing to the Chairperson concerning matters believed to be deserving of the Committee's attention.

Type of meeting: Closed.

Purpose of meeting: The NASA Wage Committee will review the survey specifications of the Cleveland, Ohio, wage area which were recommended by the Local Wage Committee and will determine whether to recommend acceptance or modification of those survey specifications.

Dated: February 20, 1987.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 87-4285 Filed 2-27-87; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information, collection: 10 CFR Part 81—Standard Specifications for the Granting of Patent Licenses.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Applications for licenses are submitted once. Other reports are submitted annually or as other events require.

5. Who will be required or asked to report: Applicants for and holders of NRC licenses to NRC inventions.

6. An estimate of the number of responses: Zero.

7. An estimate of the total number of hours needed to complete the requirement or request: Zero.

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: 10 CFR Part 81 establishes the standard specifications for the issuance of licenses to rights in inventions covered by patents or patent applications vested in the United States, as represented by or in the custody of the Commission and other patents in which the Commission has legal rights.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Richard D. Otis, Jr., (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 19th day of February, 1987.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 87-4324 Filed 2-27-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 27-48]

U.S. Ecology, Inc.; Disposal of Special Nuclear Material; Renewal of License

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of license.

SUMMARY: The Nuclear Regulatory Commission (NRC) intends to issue an amended and renewed license to U.S. Ecology, Inc. of Louisville, Kentucky, for the disposal of special nuclear material (SNM) at U.S. Ecology low-level waste disposal facility located near Richland, Washington. The amended and renewed license will reflect more rigorous operational and monitoring requirements in keeping with the intent of 10 CFR Part 61. For the most part, changes have been adopted voluntarily by the licensee in the Facility Standards Manual for the Richland Facility. The Standards Manual will be adopted by reference both in the SNM license, hereby noticed, and the State of Washington license for disposal of source and byproduct material. NRC staff has prepared an environmental assessment related to the proposed action and has determined that the issuance of this renewed license will result in no adverse impacts on the environment and therefore intends to issue a Finding of No Significant Impact (FONSI) pursuant to 10 CFR 51.31. NRC staff has prepared a Safety Evaluation Report and has determined that issuance of the renewed license will have no adverse health and safety impacts either on facility radiation workers or the general public. The supporting documentation for these determinations is available as noted below.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Shaffner, Low-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 427-4698.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) intends to issue, to U.S. Ecology, Inc., an amended and renewed license for disposal of special nuclear material (SNM) at U.S. Ecology's low level waste disposal facility located near Richland, Washington. The amended and renewed SNM license will supersede the previous one authorizing disposal activities at the facility. The amended and renewed SNM license incorporates many changes in the radiation protection, quality assurance, training, operations and monitoring procedures at the licensed facility. The license introduces rigorous waste receipt and inspection procedures to assure that only material suitable for disposal at the facility is disposed of.

The State of Washington, Department of Social and Health Services (DSHS) has already issued an amended State license for disposal of source and byproduct materials that implements the new requirements discussed above. The changes to the NRC SNM license were coordinated with the Washington DSHS and reflect requirements contained in the State of Washington license. The NRC and State licenses have been made as consistent as possible to minimize confusion on the part of waste generators, brokers and shippers.

In 1980 the NRC staff prepared an Environmental Impact Appraisal for renewal of the SNM License. That document concluded that the 1980 amendment for renewal would cause no adverse environmental impacts. Therefore, an Environmental Impact Statement was not required. In 1984, the NRC staff cited the draft and final Environmental Impact Statements (NUREG-0945) in support of rulemaking for disposal of low-level radioactive waste to conclude that the increased restrictions on waste manifests, classification and form would have no adverse environmental impacts.

As part of the current renewal process, the staff has prepared an Environmental Assessment which addresses the incremental operations, monitoring, reporting and radiation protection requirements which will be implemented by the proposed amended and renewed license. Based on the results of the environmental assessment, pursuant to 10 CFR 51.31, NRC intends to issue a Finding of No Significant Impact (FONSI) with respect to the proposed action.

Based on the foregoing, and documentation in support thereof, it is the intention of the Commission to issue the amended and renewed license for the disposal of Special Nuclear Material at the commercial low-level waste disposal facility operated by U.S. Ecology, Inc. at Hanford, Washington.

Opportunity for Hearing: Within 30 days of publication of this notice in the **Federal Register:** (1) The applicant may file a request for hearing and (2) Any person whose interest may be affected by the proceeding may file a petition for leave to intervene. If no request for a hearing or petition for leave to intervene is filed within 30 days of the publication date of this notice, the Director of Nuclear Material Safety and Safeguards intends to take the action specified herein, inform the appropriate State and local officials, and publish in the **Federal Register** a notice of issuance of the license amendment and renewal. Any petition to intervene shall set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why the petitioner should be permitted to intervene and the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene.

Dated at Silver Spring, Maryland, this 24th day of February 1987.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Chief, Low-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, NMSS.

[FR Doc. 87–4326 Filed 2–27–87; 8:45 am]

BILLING CODE 7590–01–M

Tennessee Valley Authority; Environmental Assessment and Finding of No Significant Impact; Correction

An Environmental Assessment and Finding of No Significant Impact related to the Sequoyah Nuclear Plant, Units 1 and 2, was published in the **Federal Register** on February 19, 1987 (52 FR 5220). In the fourth line of that notice, the words "Appendix J" should be changed to read "Appendix A".

Dated at Bethesda, Maryland, this 25th day of February 1987.

For the Nuclear Regulatory Commission.

B.J. Youngblood,

Director, PWR Project Directorate #4, Division of PWR Licensing-A

[FR Doc. 87–4325 Filed 2–27–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–443 and 50–444]

Public Service Co. of New Hampshire et. al [1]; Completion of Transfer of Ownership Interests

The U.S. Nuclear Regulatory Commission (the Commission) issued Amendment No. 9 to Construction Permits Nos. CPPR–135 and CPPR–136 for the Seabrook Station,* Units 1 and 2 on September 12, 1986 to show a change in ownership shares. Notice of issuance of the amendments was published in the **Federal Register** on December 18, 1986 (51 FR 33171).

Amendment No. 9 was to be effective as of the date of completion of the transfer of the respective ownership shares.

EUA Power Corporation announced that, as of November 26, 1986 they had completed the purchase of the respective ownership interest of Bangor-Hydro Electric Company, Central Maine Power Company, Central Vermont Public Service Corporation, Fitchburg Gas & Electric Company and Maine Public Service Company in an aggregate ownership share of 12.13240%. Therefore, Amendment No. 9 to Construction Permit Nos. CPPR–135 and CPPR–136 became effective November 26, 1986.

For further details with respect to this action see: (1) The applications for amendment, dated March 26, 1986, June 2, 1986, July 22, 1986, and September 2, 1986, (2) Amendment No. 9 to Construction Permit Nos. CPPR–135 and CPPR–136 dated September 12, 1986, (3) the Commission's related Safety Evaluation, and Public Service Company of New Hampshire letter, dated January 9, 1987. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington DC 20555, and at the Local Public Document Room at Exeter Public Library, Front Street, Exeter, New Hampshire 03833.

In addition, a copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 24th day of February 1987.

For the Nuclear Regulatory Commission.

Vincent S. Nooman,

Director, PWR Project Directorate No. 5, Division of PWR Licensing-A.

[FR Doc. 87–4327 Filed 2–27–87; 8:45 am]

BILLING CODE 7590–01–M

[1] The current Construction Permit holders for the Seabrook Station are: Canal Electric Company, Connecticut Light and Power Company, EUA Power Corporation, Hudson Light and Power Department, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company of New Hampshire, Taunton Municipal Lighting Plant, United Illuminating Company and Vermont Electric Generation and Transmission Cooperative, Inc.

POSTAL SERVICE

Privacy Act of 1974; Systems of Records

AGENCY: Postal Service.

ACTION: Final notice of new system of records.

SUMMARY: This document provides final notice of a new system of records. USPS 010.060, Collection and Delivery Records—Free Matter for Blind and Visually Handicapped Persons, will contain the names and addresses of postal customers who are blind or visually handicapped, and who are receiving postage-free service in their delivery area.

EFFECTIVE DATE: March 2, 1987.

FOR FURTHER INFORMATION CONTACT: Martha Smith, Program Manager, Records Office (202) 268–2931.

SUPPLEMENTARY INFORMATION: On January 14, 1987, at 52 FR 1568, the Postal Service pubished for public comment an advance notice of its establishment of a new Privacy Act system of records, USPS 010.060, Collection and Delivery Records—Free matter for Blind and Visually Handicapped Persons. No comments were received. Federal law provides free mailing privileges for certain types of material to blind and visually handicapped persons who are certified by competent authority as unable to read normal reading material. 39 U.S.C. 3403–3405. To alleviate any problems connected with determining eligibility of an individual to quality for this privilege, postmasters will collect certain identifying information about their blind and visually handicapped customers who apply to use the free mail privilege. The new system contains the names and addresses of these customers and, with respect to those customers who are new to a delivery area, statements of competent authority (licensed medical doctors, ophthalmologists, etc.) certifying that the customers are unable to read conventionally-printed material. This information indicates to postal employees the eligibility of these customers to mail and receive certain specified materials free of postage, and is used by postal employees in the

performance of their mail collection and delivery duties.

Accordingly, the new system description follows:

USPS 010.060

SYSTEM NAME:

Collection and Delivery Records—Free Matter for Blind and Visually Handicapped Persons, USPS 010.060.

SYSTEM LOCATION:

Local Delivery Post Offices

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customers who are blind or visually handicapped and cannot use or read conventionally printed material and who are receiving postage-free service in their delivery areas.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of individual, and statement of competent authority certifying that the individual is unable to read conventional reading material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404, 3403, 3404, 3405

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To assist local postal management in processing mail matter for blind or visually handicapped persons without undue delay or uncertainty concerning such persons' eligibility to mail or receive items free of postage.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

3. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate Federal, State, or local agency charged with the responsibility of investigating or prosecuting such violation or charge with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files.

RETRIEVABILITY:

Customer name and address.

SAFEGUARDS:

Records are maintained in locked file cabinets with access limited to those persons having an official need to know in the performance of their duties.

RETENTION AND DISPOSAL:

Retained as long as the customer resides in delivery area and then destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Marketing Department, Headquarters.

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to their local postmasters. Inquiries should contain full name and address

RECORD ACCESS PROCEDURE:

See Notification Procedure above.

CONTESTING RECORD PROCEDURES:

See Notification Procedure above.

RECORD SOURCE CATEGORIES:

Individual, and licensed medical doctors, ophthalmologists, optometrists, registered nurses, professional staff members of hospitals, other institutions or agencies or other competent authority.

Fred Eggleton,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-4294 Filed 2-27-87; 8:45 am]

BILLING CODE 7710-12-M

Privacy Act of 1974; System of Records

AGENCY: Postal Service.

ACTION: Final notice of records system change.

SUMMARY: The purpose of this document is to publish final notice of the Postal Service's addition of a routine use to system USPS 050.020, Finance Records—Payroll System.

EFFECTIVE DATE: March 2, 1987.

FOR FURTHER INFORMATION CONTACT: Betty Sheriff, Records Office, (202) 268-5158.

SUPPLEMENTARY INFORMATION: The Postal Service plans to participate in computer matching activities involving the discretionary disclosure of limited data from system USPS 050.02, Finance Records—Payroll System. The below described matches for which a new routine use is being added will be conducted in accordance with the Office of Management and Budget's Revised Supplemental Guidelines for Conducting Matching Programs (47 FR 21656, May 19, 1982).

Routine use No. 34 will permit the Postal Service to disclose limited information about its current and former employees to requesting Federal agencies for the purpose of identifying postal employees indebted to those agencies under programs administered by them. Upon verification of the indebtedness, the employee will be afforded all due process rights pursuant to the Debt Collection Act which permits a Federal employee's salary to be offset to satisfy debts owed the Government.

Advance notice of the proposed adoption of this routine use was published on January 13, 1987 at 52 FR 1406. No comments were received in response to the advance notice. System USPS 050.020 last appeared on January 26, 1987, in 52 FR 2776. In addition, final notice of modification to that system's "Categories of Individuals Covered by the System" appeared on February 12, 1987, in 52 FR 4546.

Accordingly, the Postal Service is adding a new routine use to system USPS 050.020, Finance Records—Payroll System, as follows:

USPA 050.020

SYSTEM NAME:

Fianance Records—Payroll System, 050.020.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PUSPOSES OF SUCH USES:

* * * * *

34. Disclosure of information about current or former postal employees may be made to requesting Federal agencies under approved computer matching efforts in which either the Postal Service or the requesting entity acts as the matching agency. Disclosure will be limited to only those data elements considered relevant to identify individuals who are indebted to those agencies and to provide those individuals with due process rights prior to initiating any salary offset, pursuant to the Debt Collection Act.

* * * * *

A complete statement of system USPS 050.020, as modified by this notice, appears below.

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System.

SYSTEM LOCATION:

Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USPS employees, postmaster relief/replacement employees, and certain former spouses of current and former postal employees who qualify for Federal Employees Health Benefits Coverage under Pub. L. 98–615.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain general payroll information including retirement deduction, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding allowances, FICA taxes, salary, name, social security number, payments to financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1003; 5 U.S.C. 8339

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of the managerial duties.

2. To provide information to USPS management and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection Committee and Regional Postmasters General.

3. To compile various lists and mailing list, i.e., Postal Leader, Women's Programs, Newsletter, etc.

4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Positions Evaluations of Probationary Employees, Merit Evaluation, Membership and Identification Listings, Emergency Locator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various ranges.

Use—

1. Retirement Deduction—To transmit to the Office of Personnel Management a roster of all USPS employees under Title 5 U.S.C. 8334, along with a check.

2. Tax Information—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdiction.

3. Unemployment Compensation Data—To reply to State Unemployment Offices at the request of separated USPS employees.

4. Employee Address File—For W–2 tax mailings and Postal mailing such as Postal Life, Postal Leaders, etc.

5. Salary payments and allotments to financial organizations—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FICA Deductions—The Social Security Act requires that FICA deductions be made for those employees not eligible to participate in the Civil Service Retirement System (casuals). In addition, the Tax Equity and Fiscal Responsibility Act of 1982 requires that contributions to the Medicare program be deducted from all employees; earnings. (These statutes do not apply to employees in the Trust Territories who are not U.S. citizens.) Accordingly, records of earnings (i.e., W–2 information) must be disclosed to the Social Security Administration in order that it may account for funds received and determine individual's eligibility for benefits. Information disclosed includes name, address, SSN, wages paid subject to withholding, Federal, state, and local income tax withheld, total FICA wages paid and FICA tax withheld, occupational tax, life insurance premium and other information as reported on an individual's W–2 form.

7. Determine eligibility for coverage and payments of benefits under the Civil Service Retirement System, the Federal Employees Group Life Insurance Program and the Federal Employees Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees Group Life Insurance Program and the Federal Employees Health Benefits Program and authorizing payment of that amount and transfer related records as appropriate.

9. Transfer to Office of Workers Compensation Program, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, military retired pay programs, and Federal Civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system for use in determining an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as required by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program in a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature to the appropriate agency whether Federal, State, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

14. To request or provide information from or to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses. If necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant, or other benefits.

15. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies, may also be utilized to respond to general requests for statistical information (without personal identification of Individuals) under the Freedom of Information Act or to locate specific individual for personal research or the personnel management functions.

16. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive records may be transferred to a Federal Records Center prior to destruction.

22. To provide to the Office of Personnel Management (OPM) approximately 19 data elements (including SSAN, DOB, service computation date, retirement system, and FEGLI status) for use by OPM's Compensation Group. Data collected are not for the purpose of making determinations about specific individuals but are used only as a means of ensuring the integrity of the active employee/annuitant data systems and for analyzing and statistically projecting Federal retirement and insurance system costs. The same data submission will be used to produce summary statistics for reports of Federal employment.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

24. Records in this system are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

25. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Pub. L. 93–647.

26. Disclosure of information about current or former postal employees may be made to requesting states under approved computer matching efforts in which either the Postal Service or the requesting State acts as the matching agency, but limited to only those data elements considered relevant to making a determination of employee participation in and eligibility under unemployment insurance programs administered by the States (and by those States to local governments); to improve program integrity; and to collect debts and overpayments owed to those governments and their components.

27. To union-sponsored insurance carriers for the purposes of determining eligibility for coverage and payments of benefits under union-sponsored non-Federal insurance plans and transferring related records as a appropriate.

28. Disclosure of information about current of former postal employees may be made to requesting Federal agencies or non-Federal entities under approved computer matching efforts in which either the Postal Service or the requesting entity acts as the matching agency, but limited to only those data elements considered relevant to making a determination of employee participation in and eligibility under particular benefit programs administered by those agencis or entities or by the Postal Service; to improve program integrity; and to collect debts and overpayments owed under those programs.

29. (Temp.) To provide the Department of Housing and Urban Development the names, social security account numbers and home addresses of postal employees for the purpose of notifying those individuals of their indebtedness to the United States under programs administered by the Secretary of Housing and Urban Development and for taking subsequent actions to collect those debts.

Note.—This routine use will be in effect for a period of five years ending September 24, 1989.

30. To provide to the Department of Defense (DOD) upon request, on a semiannual basis, the names, social security account numbers and home addresses of current postal employees for the purpose of identifying those employees who are indebted to the United States under programs administered by the Secretary, DOD, and for taking subsequent actions to collect those debts.

31. To provide to the Department of Defense (DOD), upon request, on an annual basis, the names, social security account numbers, and salaries of current postal employees for the purposes of updating DOD's listings of Ready Reservists and reporting reserve status information to the Postal Service and the Congress.

32. Disclosure of information about current or former postal employees may be made to requesting Federal agencies or non-Federal entities under approved computer matching efforts in which either the Postal Service or the requesting entity acts as the matching agency, but limited to only those data elements considered relevant to identifying those employees who are absent parents owing child support obligations and to collecting debts owed as a result thereof.

33. Disclosure of information about current or former postal employees may be made on a semi-annual basis to the Department of Defense (DOD) under approved computer matching efforts in which either the Postal Service or DOD acts as the matching agency, but limited to only those data elements considered relevant to identifying retired military employees who are subject to restrictions under the Dual Compensation Act as amended (5 U.S.C. 5532), and for taking subsequent actions to reduce military retired pay or collect debts and overpayments, as appropriate.

34. Disclosure of information about current or former postal employees may be made to requesting Federal agencies under approved computer matching efforts in which either the Postal Service or the requesting entity acts as the matching agency. Disclosure will be limited to only those data elements considered relevant to identify individuals who are indebted to those agencies and to provide those individuals with due process rights prior to initiating any salary offset, pursuant to the Debt Collection Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

RETRIEVABILITY:

These records are organized by location, name and social security number.

SAFEGUARDS:

Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

RETENTION AND DISPOSAL:

a. Leave Application Files (Absence Control) and Unauthorized Overtime—Destroy when 2 years old.

b. Time and Attendance Records (Other than payroll) and local payroll records—Destroy when 3 years old.

c. PDC records retention—contact PDC Payroll Office or Records Office.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Department of the Controller and APMG, Employee Relations Departments at Headquarters.

NOTIFICATION PROCEDURE:

Request for information on this system of records should be made to the head of the facility where employed giving full name and social security number. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURE:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information is furnished by employees, supervisors and the Postal Source Data System.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-4293 Filed 2-27-87; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24127; File No. SR-CBOE-87-01]

Self-Regulatory Organizations; Order Granting Accelerated Approval to Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to RAES Eligibility for Individuals and Groups in OEX

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 21, 1987, Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The Exchange's pilot program for RAES Eligibility for Individuals and Groups in OEX has been in operation since June 23, 1986, pursuant to SR-CBOE-86-10. By this rule change, this pilot program in OEX will be extended six months, to June 22, 1987.

The pilot program will continue as described in SR-CBOE-86-10.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

This is a six month extension of a six-month pilot for RAES Eligibility for Individuals and Groups in OEX. The additional time is necessary for the Exchange to finalize and submit a proposed rule change to modify the eligibility standards based on the results to date of the pilot program. Continuing the existing pilot program for this period will assure that the market-place is not disrupted by removing group eligibility while the expected new proposed rule change is under consideration.

The Exchange believes that the continuation of the pilot without interruption will assure the least disruption while RAES eligibility standards are evaluated by the Exchange. The proposed rule change is consistent with the provisions of the Securities Exchange Act of 1934, and, in particular, section 6(b)(5) therefore, in that the proposal is designed to improve market efficiency and enhance the market functioning of the Exchange's automatic execution system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness under section 19(b)(2) of the Act. The Exchange states that this is appropriate because the pilot program has already been the subject of public notice, comment, and approval in connection with File No. SR-CBOE-86-10, Securities Exchange Act Release No. 23313, June 10, 1986 and uninterrupted continuation of the pilot program is in the public interest.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 and the rules and regulations thereunder. The use of RAES for OEX options has increased the efficiency of executing small customer orders. The pilot currently in place should help the Exchange improve the operation of RAES.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof because the rule change is a six month extension of the six-month pilot program for RAES Eligibility for Individuals and Groups in OEX which was approved pursuant to File No. CBOE-86-10. Continuation of the pilot program without interruption will assure the least disruption of the market while RAES eligibility standards are evaluated by the Exchange. The Exchange's proposed rule change will help to remove impediments to and perfect the mechanism of a free and open market by improving market efficiency and enhancing the market functioning of the Exchange's automatic execution system.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provision of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at

the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted March 23, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 20, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-4757 Filed 2-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24321]

Filings Under the public Utility Holding Company Act of 1935 ("Act")

February 19, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 16, 1987, to the Secretary, Securities and Exchange Commission Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Alabama Power Company (70-7211)

Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary of The Southern Company, a registered holding company, has filed a post-effective amendment to its application-declaration pursuant to seciton 6(a), (b) and 7 of the Act and Rules 50(a)(2) and 50(a)(5) thereunder.

By order dated may 21, 1986 (HCAR No. 24102), Alabama was authorized to issue and sell short-term notes to banks and commercial paper to dealers, in an aggregate principal amount of up to $322 million, from time to time prior to April 1, 1988, subject to the condition that it reduce its maximum short-term debt by the amount of net proceeds derived from the sale, prior to April 1, 1988, of it first mortgage bonds and/or preferred stock. Alabama now proposes to eliminate this condition from the proposed transaction, to extend the period of authorization to April 1, 1989, and to reduce the authorized aggregate principal amount of short-term notes and commercial paper to be issued and sold to a maximum of $300 million.

The Southern Company, et al. (70-7340)

The Southern Company ("Southern"), 64 Perimeter Center East, Atlanta, Georgia 30346, and its public utility subsidiaries, Gulf Power Company, 75 North Pace Boulevard, Pensacola, Florida 32505, and Mississippi Power Company, 2992 West Beach, Gulfport, Mississippi 39501, have filed an application-declaration under section 6(a), 6(b), 7 and 12 of the Act and Rules 45 and 50 promulgated thereunder.

Southern, Gulf and Mississippi propose to issue and sell from time-to-time prior to April 1, 1989, short-term notes to banks and, in the case of Gulf and Mississippi, commercial paper to dealers of up to the aggregate principal amounts at any one time outstanding of $100 million for Southern, $50 million for Gulf and $85 million for Mississippi. For the period ending April 1, 1988, Southern also proposes to make capital contributions to its subsidiaries, Alabama Power Company, Georgia Power Company, Gulf and Mississippi, in amounts not to exceed $70, $300, $20 and $25 million, respectively.

Southern has obtained commitments aggregating $100 million from various banks, each commitment currently to mature on or before December 21, 1987, subject to renewal in accordance with its terms. At Southern's option, borrowings will bear interest at an effective rate of: (a) The lender's floating prime rate, which borrowings may be prepayable without premium or penalty; (b) a margin over the LIBOR, subject to prepayment penalties; or (c) a margin over the bank's cost of its federal or other funds, also subject to prepayment penalties.

Gulf's and Mississippi's short-term borrowings will be evidenced by notes to mature in not mor than 9 months after the date of issue and generally will be prepayable in whole, or in part, without penalty or premium. Such borrowings will be at (a) the lending bank's prevailing rate offered to corporate borrowers of similar quality or (b) a margin over LIBOR, a margin over certificate of deposit rates or the prime rate. Gulf and Mississippi also may effect short-term borrowings in connection with the financing of certain pollution control facilities through the issuance by public entities of revenue bond anticipation notes.

Allegheny Power System, Inc. (70-7343)

Allegheny Power System, Inc. ("Allegheny") 320 Park Avenue, New York, New York 10022 a registered holding company, has filed a declaration pursuant to section 6(a), 7 and 12(e) of the Act and Rules 62 and 65.

Allegheny proposes to submit to its shareholders at the annual meeting to be held May 14, 1987, an amendment to its charter of incorporation to increase the authorized number of common shares from 55,000,000 to 130,000,000. As of December 31, 1986, Allegheny had issued and outstanding shares of 50,868,228.

The additional authorized common shares would be available in the event that the Board of Directors votes to split common shares in the form of a special stock dividend, or for other corporate purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-4258 Filed 2-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24320]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

February 19, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 16, 1987, to the Secretary,

Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Central and South West Corporation (70–7342)

Notice of Amendment of Restated Certificate of Incorporation and Ratification of Indemnification Agreements. Order Authorizing Proxy Solicitation.

Central and South West Corporation ("CSW"), 2121 San Jacinto Street, Suite 2500, Dallas, Texas 75222, a registered holding company incorporated under the laws of Delaware, has filed a declaration subject to section 6(a)(2), 7(e) and 12(e) of the Act and Rules 62 and 65 thereunder.

Effective July 1, 1986, the state legislature amended certain provisions of the Delaware General Corporation Law ("GCL") to permit Delaware corporations, upon shareholder approval, to limit personal liability of directors. The GCL amendments also clarify a number of technical issues relating to director and officer indemnification.

CSW proposes to amend its Restated Certificate of Incorporation, as amended, to provide for the limitation of personal liability of CSW directors to the full extent permitted by applicable law ("Amendment"). Essentially, the Amendment would prevent personal monetary liability in the event that a director is found to have breached the duty of due care, in good faith (even if the director were grossly negligent) and without personal benefit or other breach of the duty of loyalty.

CSW also seeks the ratification of indemnification agreements ("Agreements") between CSW and its directors and certain of its officers. Although its bylaws allow CSW to provide indemnification to the full extent permitted by law, the Agreements provide additional assurance against the threat of uninsured liability, primarily by specifying the extent to which the persons indemnified would be entitled to receive benefits not expressly set forth in the GCL and by including specific procedural provisions concerning indemnification.

Approval of the Amendment requires the affirmative vote of the holders of a majority of the outstanding shares of CSW common stock. CSW therefore proposes to solicit proxies for approval of the Amendment, ratification of the Agreements and other matters contained in the proxy statement at the annual meeting of shareholders to be held on April 16, 1987. CSW has filed its proxy solicitation material and requests that the effectiveness of its declaration with respect to the solicitation of proxies be accelerated as provided in Rule 62.

It appearing to the Commission that CSW's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith, pursuant to Rule 62:

It is ordered, that the declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith, pursuant to Rule 62, and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–4259 Filed 2–27–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–24117; File No. PHLX 87–2]

Self-Regulatory Organizations; Proposed Rule Change By the Philadelphia Stock Exchange, Inc. Relating to Facilitation of Affiliated Upstairs Firms As Options Specialists

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 2, 1987, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchage ("PHLX") proposes to amend its rules to ease restrictions imposed on approved persons or member organizations affiliated with options specialists or specialists units in order to facilitate entry into the options specialist business by retail-broker dealers, among others. The terms of substance of the proposed rule change are summarized under item II below.[1] The proposed rule change is similar to rule changes of the American Stock Exchange and the New York Stock Exchange recently approved by the Securities and Exchange Commission in Release No. 23768 (November 3, 1986).

II. Self-Regulatory Organization's Statement of, the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to facilitate the entry of diversified retail member organizations with corporate finance retail sales and research departments into the options specialist business. Since the start of the PHLX options program, Exchange rules have imposed restrictions on options specialists, and on varous persons affiliated with options specialists. These rules have stood as serious obstacles to attracting diversified, well capitalized retail member organizations to act as options specialists at the Exchange. In general, these rules prohibit options specialists and their member organizations and their corporate parents fom engaging in business transactions with issuers of specialty securities (for insiders of such issuers) from accepting orders in specialty securities from the issuer insiders or other parties, from trading in options on their specialty securities and from trading in specialty securities, except pursuant to market making functions. As a result, with some exceptions, such member organizations have avoided the options specialist business since they

[1] The Commission previously approved a rule change (File No. SR–Phlx–86–44) identical to the one published herein for a period up to one year. *See* Securities Exchange Act Release No. 24057 (February 4, 1987).

would be required to curtail or eliminate portions of their present business activities as they relate to specialty securities.

These restrictions derived principally from a concern that any business relationship between an issuer and its options specialist could either give rise to the improper transmission or use of material non-public corporate or market information or to conflicts of interest. It was previously believed that specialists due to their unique position in the market should carry out their market making responsibilities free from of any outside influences or undertakings. The restrictions on specialist organizations were extended to cover approved persons or affiliated upstairs firms of a specialist unit whose business relationship with issuers raised similar conflicts of interest problems so that they would not be placed in a more advantageous position vis-a-vis other market participants because of their association with the specialist unit.

The regulatory and competitive environment has changed significantly since these rules were first adopted. At that time, there existed a perception that specialists had a measure of control over markets in their specialty securities however, that control has been greatly eroded due to a number of changes in the regulatory and competitive environments. These include the adoption of SEC Rules 19c–1 and 19c–3, and the increased vigor of both over-the-counter market and the regional and other competitive national securities exchanges, as well as the increase in member firm block trading activity reducing the control specialists were perceived to have over the market in their specialty securities. In light of the highly sophisticated surveillance techniques in effect at the Exchange and increased competition from other markets, there is no longer a continuing need for these prohibitions as they relate to affiliated upstairs firms. Such diversified member organizations have asked the Exchange from time to time to ease these restrictions. Similarly restrictions are not imposed on over-the-counter market makers and the NYSE and the AMEX both which had similar rules have recently been granted approval of proposed rule change amendments relaxing the rules restricting the activities of affiliated upstairs firms. The proposed rule change will assist the Exchange in remaining competitive with these other markets.

Specifically, the Exchange proposes to amend Rule 1020 to provide an exemption (for the affiliated upstairs firm only) from the trading restrictions pertaining to purchase and sales of specialty securities for the account of an approved person, as specified in Rule 1020(e); the prohibitions against entering into business transactions with issuers (of specialty securities as specified in Rule 1023(a) and the prohibition against accepting orders in specialty securities from the issuer, insiders and other parties as specified in Rule 1023(b). This exemption will be available to an approved person or other affiliated upstairs member organization which obtains prior exchange approval for the procedures on restricting the flow of material non-public information between in and its affiliated specialist *i.e.*, a "Chinese Wall". Formal Exchange guidelines, as stated above, which firms will be required to meet in establishing these procedures are discussed below.

The Chinese Wall

Today, many diversified retail firms have established internal policies and procedures, known as Chinese Walls, restricting interdepartmental flow of material non-public information about the firm's corporate clients. The goal of these procedures is to prevent the communication of unpublished price-sensitive information about issuers of publicly held securities to those departments of the firm which might misuse the information for market trading purposes. The Chinese Wall concept operates on the principle that adequate control over access to inside information will preclude its misuse and reduce conflicts of interest problems. In diversified securities firms, personnel in the retail sales, research and investment advisory divisions are generally denied access to information held by the firm's investment banking division. Usually this is accomplished by an express policy statement which prohibits personnel who have knowledge of material non-public information about a publicly held corporation from communicating that information to personnel in other departments of the firm. In addition, some firms bolster their walls by restricting access, such as personnel transfers between departments, physically separating the "knowledgeable" department from the remainder of the firm, by creating a separate subsidiary or affiliate.

Any firm wishing to obtain an exemption for its non-specialist activities from the restrictions specified in amended Rule 1020 must establish a Chinese Wall in conformity with Exchange guidelines between the specialist unit and its affiliated upstairs member firm. The exemption is voluntary. Any affiliated upstairs firm not wishing to satisfy the Exchange criteria will remain subject to the restrictions discussed above.

The Chinese Wall envisioned in these rule changes are designed to prevent the specialist organization and the affiliated upstairs firm from making material non-public corporate or market information available to each other and to ensure the specialist does no trading while in possesion of material non-public information derived for the affiliated upstairs firm from its relationship with the issuer or with knowledge of pending transactions or the upstairs firms recommendation. The guidelines provide procedures to be used in temporary allocation of the book where a specialist unit becomes "contaminated" following a breach of the "Chinese Wall". The guidelines also specify that a firm's procedures should ensure that information regarding securities positions trading activities and margin financing arrangements between the affiliated upstairs firm and the specialist unit should be available solely to senior management in the upstairs firm exercising general managerial oversight of the specialist unit. Once in place, these procedures will substantially lessen the need for the prohibitions contained in the rules discussed above to the extent they apply to upstairs firms affiliated with specialists. The restrictions themselves would remain in effect as to the specialist organization itself.

The Exchange believes the proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 ("1934 Act") and the rules and regulations applicable to the Exchange as it will facilitate the entry of large diversified retail broker-dealers into the specialist business on the Exchange floor and in so doing will enhance depth and liquidity in the equity options market.

B. Self-Regulatory Organizations Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i)

as the Commission may designate up to 90 days or such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or, (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 23, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 19, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-4260 Filed 2-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24121; File No. SR-AMEX-87-9]

Self-Regulatory Organization's Proposed Rule Change by the American Stock Exchange, Inc. Relating to Index Options Escrow Receipt Pilot Program

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 19, 1987 the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("AMEX" or "Exchange") proposes to extend the index options escrow receipt pilot program set forth in SR-AMEX-84-33 until June 30, 1987 and proposes the program to be continued on a permanent basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In August 1985, the Amex, in conjunction with the other options exchanges adopted a one-year pilot program to permit the use of cash, cash equivalents, one or more qualified securities, or a combination of the foregoing, as collateral for escrow receipts issued to cover short call positions in broad-based stock index options. (See SR-AMEX-84-33 and SEC Release No. 34-22323 approving the filing for details of the pilot program.)

Pursuant to its agreement with the SEC, the Chicago Board Options Exchange ("CBOE"), on behalf of the other options exchanges and the OCC, agreed to monitor the use of index option escrow receipts during the pilot program. The program was subsequently extended for an additional six month period to permit the CBOE to complete its study (SR-AMEX-86-26). On February 6, 1987 the CBOE submitted its report on the pilot program to the SEC for its review and assessment. In order for the SEC to thoroughly review the CBOE Report it is therefore proposed the pilot program be extended through June 30, 1987.

In addition, since the CBOE has concluded in its report that the pilot program has been a success and warrants final SEC approval, the Exchange also proposes the program be continued on a permanent basis.

The proposed rule change to extend the index options escrow receipt program is consistent with the requirements of the Securities Exchange Act of 1934 ("Act") and the rules and regulations thereunder applicable to the Exchange in that it will continue a program intended to reduce operational difficulties of banks and trust companies, while the Commission evaluates the program's effectiveness. Therefore, the proposed rule change is consistent with section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Options Committee, a committee of the AMEX Board of Governors comprised of members and representatives of member firms, has endorsed the proposed rule change.

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Amex states in its rule filing that to date the index option escrow receipt pilot program has been successful in reducing the operational difficulties of banks and trust companies. The Amex also notes that the CBOE, on its behalf and that of the other options exchanges, recently submitted to the Commission a report on the operation of the pilot program. In order to permit the Commission to conclude its evaluation of this report, the Commission is extending the pilot program through June 30, 1987. Accordingly, the Commission is hereby approving that part of the proposed rule change requesting an extension of time for the running of the pilot program. The Commission finds good cause for approving this part of the proposed rule

change prior to the thirtieth day after the date of publication of the proposal in the Federal Register in that the pilot has operated effectively to date and has benefited many market participants.

As regards that part of the rule filing which requests permanent approval of the use of escrow receipts for broad-based index options, this publication serves as notice of that portion of the proposed rule change.

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropirate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 23, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 20, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-4261 Filed 2-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24113; File No. SR-CBOE-86-35]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

On October 28, 1986, the Chicago Board Options Exchange ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposal to amend its liability provisions relating to order book disputes.

The proposed rule change was published for comment in Securities Exchange Act Release No. 23905 (December 17, 1986), 51 FR 46965 (December 29, 1986). No comments were received on the proposed rule change.

The CBOE proposes several modifications of its liability provisions relating to order book disputes. Currently, members may bring claims in an arbitration proceeding against the Exchange for losses relating to the Exchange's operation of the order book, but the Exchange does not have a reciprocal right to bring actions against members. The rule change would confer such a right upon the Exchange. The proposed rule change would also waive the specific dollar limit on Exchange liability. The rule as amended would limit a party's liability to the lesser of (1) the loss which would have been incurred by the claimant if an uncompared trade had been closed out at the opening of trading on the day provided under exchange rules; or (2) the actual loss realized by the claimant.

Next, the rule proposal would extend from one day to ten days the period within which any party, absent reasonable justification or excuse, must submit to the opposing party a writing of the claim. This requirement is not jurisdictional and does not abrogate the time limits set forth in Chapter XVIII of CBOE's rules, relating to arbitration in general. Included as well is a specific incorporation by reference of the Exchange's arbitration rules.

Finally, there is a new section that would preclude Exchange liability for claims arising from use of certain technological facilities provided by the Exchange, including electronic order routing, file, trade match, trade processing, price reporting, quotation and execution systems.

[1] 15 U.S.C. 78s(b)(1) (1984).

[2] 17 CFR 240.19b-4 (1986).

The proposal to allow the CBOE to bring arbitration actions against members for losses relating to the Exchange's operation of the order book will promote fairness by conferring reciprocal rights on the Exchange. Similarly, the elimination of the limit on Exchange liability is based on a concern that it is not equitable to limit the Exchange's liability to a greater extent than a member's liability in member-Exchange disputes. The other amendments will, for the most part, simply reflect current Exchange procedures. For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6[3] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change is Approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 19, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-4262 Filed 2-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24122 File No. SR-NYSE-86-35]

Self-Regulatory Organizations; New York Stock Exchange, Inc., Order Approving Proposed Rule Change

The New York Stock Exchange, Inc. ("NYSE") submitted on December 9, 1986, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, ("Act") 15 U.S.C. 78s(b)(1) and Rule 19b-4 thereunder to impose a $10 Series 7 examination development fee payable by each Series 7 examinee.

In its filing, the NYSE indicates that the $10 fee would allow it to recoup a portion of the costs it incurs in developing and maintaining the Series 7 examination.

Notice of the proposal together with its terms of substance was given by the issuance of a Commission release (Securities Exchange Act Release No. 23971, January 8, 1987) and by publication in the Federal Register (52 FR 1576, January 14, 1987). No comments were received regarding the proposal.

[3] 15 U.S.C. 78f (1984).

[4] 15 U.S.C. 78s(b)(2) (1984).

Section 6(b)(4) of the Act requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities. The Commission believes that it is reasonable for the NYSE to impose a Series 7 examination development fee of ten dollars to recoup a portion of its costs incurred in developing and maintaining the Series 7 examination. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and is, hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Dated: February 20, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-4263 Filed 2-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24119; File No. SR-Phlx-86-46]

Self-Regulatory Organizations; The Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

On December 15, 1986, the Philadelphia Stock Exchange, Inc. ("Phlx"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change establishing a fine schedule for violation of exchange exercise requirements, and clarifying the intent of exchange rules related to the handling of Registered Options Traders' ("ROTs") orders.[3]

The proposed rule change was noticed in Securities Exchange Act Release No. 23969 (January 7, 1987), 52 FR 1572 (January 14, 1987). No comments were received on the proposed rule change.

The proposed rule change amends three Phlx Option Floor Procedure Advices: B-9, C-3, and G-1. Advice B-9 is amended to state that only when an issue of parity arises, a ROT's order will be presumed to be an opening order unless the field which reads "closing" on the options ticket is checked. Similarly, Advice C-3 is amended to state that only when an issue of parity arises, a floor broker who is handling the order of a ROT must announce whether such order is opening or closing.[4] Finally, Advice G-1 is amended to add a schedule of fines for failure to file an exercise advice form when exercising 25 or more contracts in a particular index series. The fines established by the Exchange are a warning for a 1st occurrence, a $100 fine and $250 fine for the 2nd and 3rd occurrence, respectively, and a sanction determined by the Business Conduct Committee for the 4th occurrance.

Currently, Advices B-9 and C-3 apply regardless of whether an issue of parity arises. The issue of whether a ROT's order is to open or close a position has relevance primarily in connection with questions regarding parity of customer and ROT orders. Accordingly, the proposed rule change will make clear that these advices are intended to address questions of parity. Because the proposed amendments will help clarify exchange rules without changing parity determinations, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6,[5] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change is approved:

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: February 19, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-4264 Filed 2-27-87; 8:45 am]

BILLING CODE 8010-01-M

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[1] 17 CFR 200.30-3.

[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b-4 (1985).

[3] The Phlx filed Amendment No. 1 to the proposed rule change on January 8, 1987. The substance of this amendment is discussed herein.

[4] Amendment No. 1 to the rule filing clarifies that Advice C-3 requires a floor broker to announce to the trading crowd when he is handling a ROT's order; this announcement is required *whenever* a floor broker handles a ROT's order, not just on those occasions when an issue of parity arises.

[5] 15 U.S.C. 78f (19820.

[6] 15 U.S.C. 78 s(b)(2)(1982).

[7] 17 CFR 200.30-3(a)(12)(1985).

[Release No. 34-24114; File No. SR-Phlx-86-49]

Self-Regulatory Organizations; Proposed Rule Change By the Philadelphia Stock Exchange, Inc.; Relating to Off-Floor Trading by Market Makers

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 9, 1987 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. hereby proposed the following rule change: (Brackets indicate deletions; *italics* indicates additions.)

Floor Procedures Advices

B-8 Use of Floor Brokers

(*a*) When a Registered Options Trader who is on the floor gives an order to a Floor Broker for execution, [he] *the Registered Options Trader* must *initial and* time stamp the order ticket and indicate on it whether such order is opening or closing.

(*b*) *When a floor broker is used to open a position in the account of a Registered Options Trader, the Registered Options Trader must be aware of the terms of the trade, initial and time stamp the order, and retain a copy of the ticket.*

Fine Schedule

B-8*(a) and (b)*

1st Occurrence—$100.00
2nd Occurrence—$250.00
3rd Occurrence—$500.00
4th Occurrence and thereafter—
Sanction is discretionary with the Business Conduct Committee.

C-3 Handling Registered Options Traders' Orders

(*a*) A Floor Broker must announce to the trading crowd when he is handling an order for a Registered Options Trader and must state whether such order is opening or closing. In addition, in handling such orders for an ROT the Floor Broker must comply with Commentaries .10, .11, .12, and .13 of Rule 104.

See Rule 1063(d).

(b) Before executing an opening transaction on behalf of a Registered Options Trader, a floor broker must ascertain that the Registered Options Trader is aware of the terms of the trade and assure that the floor ticket has been initialed and time stamped by the Registered Options Trader.

Fine Schedule

C-3*(a)*

1st Occurrence—$50.00
2nd Occurrence—$100.00
3rd Occurrence—$250.00
4th Occurrence and thereafter—
Sanction is discretionary with the Business Conduct Committee

C-3*(b)*

1st Occurrence—$100.00
2nd Occurrence—$250.00
3rd Occurrence—$500.00
4th Occurrence and thereafter—
Sanction is discretionary with the Business Conduct Committee

B-3 Trading Requirements

A Registered Options Trader is required to trade in person, and not through use of orders, [at least] *the greater of* 1,000 contracts *or 50% of his contract volume* on the Exchange in each quarter. Also, at least 50% of a Registered Options Trader's trading activity in each quarter must be in assigned options. No application by a Registered Options Trader to change options assignments will be approved unless such Registered Options Trader is in compliance with the above [two] requirements at the time the application for change is made.

See Rule 1014, Commentaries .03, .05, and .14.

Fine Schedule

B-3

1. Quarterly requirement to trade *the greater of* 1,000 contract *or 50% of contract volume* in person.

1st Occurrence—Warning
2nd Occurrence—$500.00
3rd Occurrence and thereafter—
Sanction is discretionary with the Business Conduct Committee.

2. Quarterly requirement to trade 50% in assigned options.

1st Occurrence—Warning
2nd Occurrence—$200.00
3rd Occurrence and thereafter—
Sanction is discretionary with the Business Conduct Committee.

C-7. Responsibility to Represent Orders to Trading Crowd Once an option order has been received on the Floor, it must be represented to the trading crowd before it may be represented away from the crowd.

F-1. Bids and Offers

All bids and offers shall be general ones and shall not be specified for acceptance by particular members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to address the issue of off-floor trading by market makers. Off-floor trading involves instances where a market maker firm has some prior knowledge of a proposed trade in the Exchange's market. This can occur, for example, when a floor broker representing a customer's order makes inquiries of a market maker firm prior to representing the order in the Exchange's auction market. These rules are proposed in an effort to maintain the highest quality of customer executions and to improve the functioning of the Exchange's auction market, while at the same time acknowledging changing patterns in market making.

New Floor Procedure Advices B-8(b) and C-3(b) assure that a registered options trader who is on the floor has knowledge of the terms of a trade initiated by a floor broker on his behalf. In order for a registered options trader to open a position in a market maker account, and to be entitled to exempt credit for margin purposes, the order must be initiated on the floor. The proposed rule would contain a clearly established procedure to provide for compliance with the requirement that market maker trades qualifying for exempt credit for margin purposes be initiated on the floor. In addition, appropriate fine schedules are provided for failure to comply with these established procedures.

The Exchange is also proposing that Floor Procedure Advice B-3 be amended to require that a registered options trader be required to trade in person the greater of 1,000 contracts of 50% of his contract volume. This rule will not require upstairs market makers to trade on the floor. However, it will require half of their trading activity to be effected in person by themselves or by registered options traders associated with the same market maker member organization, rather than by floor brokers. This rule will assure that persons with affirmative market maker obligations execute a greater portion of market maker trades on the exchange in person where such obligations may be called into play.

Finally, the Exchange proposes two new floor procedure advices which are intended to assure the proper function of the Exchange's auction market. One advice provides that once an order has been received on the floor it must be represented in the trading crowd, where it will receive maximum interaction with orders competing for the other side of the trade, before it may be represented away from the crowd, i.e., to an upstairs firm. A complimentary Floor Procedure Advice provides that bids and offers in the crowd must be general and not specific to any person in the crowd. The purpose, again, is maximum interaction among orders.

The proposed rule change is consistent with section 6(b)(5) of the Securities Exchange Act of 1934 in that it will facilitate transactions in securities and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii)

as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or,

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 23, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 19, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-4265 Filed 2-27-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Small Business Investment Companies; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "Debenture Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged on ten-year debentures sold by Licensees to the public. Notice of this rate will be published upon change in the Debenture Rate.

Accordingly, Licensees are hereby notified that effective the date of publication of this Notice, and until further notice, the Debenture Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is 7.950% per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to section 308(i) of the Small Business Investment Act, as amended by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Dated: February 18, 1987.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-4237 Filed 2-27-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 1004]

U.S. Ratification of 1980 United Nations Convention on Contracts for the International Sale of Goods: Official English Text

On December 11, 1986 the United States deposited at United Nations Headquarters in New York its instrument of ratification of the 1980 U.N. Convention on Contracts for the International Sale of Goods. The United States did so jointly with China and Italy. The Convention will enter into force on January 1, 1988 between the United States and the following countries: Argentina, China, Egypt, France, Hungary, Lesotho, Syria, Yugoslavia and Zambia.

The Convention sets out substantive provisions of law to govern the formation of international sales contracts and the rights and obligations of the buyer and seller. It will apply to sales contracts between parties with their places of business in different countries bound by Convention, provided the parties have left their contracts silent as to applicable law. Parties are free to specify applicable law and to derogate from or vary the effect of provisions of the Convention. Certain types of sales and sales of certain types of goods are excluded from the Convention's scope, and the Convention is not concerned with the validity of the contract. Part I of the Convention sets out its sphere of application and general provisions. For the Convention to be applicable the contract of sale need not be concluded in or evidenced by writing unless one of the parties has its place of business in a country that has made a reservation in this regard. The United States did not make this reservation. Article 100 deals with the Convention's applicability to sales contract formation and sales contracts themselves in relation to its entry into force.

United States ratification was coupled with a declaration that the United States would not be bound by Article 1(1)(b), which will have a narrowing effect on the sphere of applciation of the Convention.

Traders and their counsel are advised to study the Convention carefully in light of international sales and purchases involving parties in the above-mentioned countries and additional countries for which the Convention will eventually be entering into force.

The legal analysis that accompanied the Convention to the Senate and that relates its provisions ot the corresponding provisions of the Sales Article of the Uniform Commercial Code may be found in 22 *International Legal Materials* 1368-80 (1984) (a bi-monthly publication of the American Society of International Law). A complete bibliography with citations to publications thta reproduce the Convention text and legislative materials concerning the Convention, as well as secondary literature including books, symposia and law review articles, is to be published by Professor Peter Winship, Southern Methodist University School of Law, in the Spring 1987 issue of *The International Lawyer*, the law review published by the Section of International Law and Practice of the American Bar Association.

For the most current information about countries that have ratified or acceded to the Convention, write or phone the United Nations, which was designated as the depository for the Convention: United Nations, Treaty Section, New York, N.Y. 10017 (212) 754-7958/5048).

The Office of Treaty Affairs, Department of State, maintains records on multilateral treaties such as the 1980 Sales Convention that are based, in part, on information provided it by the United Nations. It updates that information and, on a monthly basis, publishes information in the *State Department Bulletin* about developments concerning treaties and conventions to which the United States is a party. The Department of State publication "Treaties in Force" annually lists all states parties to treaties and

conventions to which the United States is a party, with the status as of January 1 of any given year, noting also whether a state may have made reservations when becoming a party.

The Department understands that a number of legal publications wil be printing the text of the Convention and materials that accompained it to the Senate, some listing countries becoming parties and any reservations or declarations to which their ratification may have been subject. These include: United States Code Annotated, 1987 pocket part to 15 U.S.C.A. Appendix; Uniform Laws Annotated, Appendix to Uniform Commercial Code, with a reference to the Convention in connection with Article 2; United States Code Service in an Appendix at the end of Title 15; Martindale-Hubbell Law Directory in Volume VIII, Part VII: Selected International Conventions to which the United States is a party.

There is reprodcued below a photocopy of the United Nations-certified English text of the Convention which traders and their counsel are encouraged to use, as typographical errors may be contained in any other published version of the text. It should be noted that the Arabic, Chinese, French, Russian and Spanish Convention texts have equal authenticity with the English text.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law.

Appendix: U.N.-Certified English text of the Convention

BILLING CODE 4710-08-M

UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS

THE STATES PARTIES TO THIS CONVENTION,

BEARING IN MIND the broad objectives in the resolutions adopted by the sixth special session of the General Assembly of the United Nations on the establishment of a New International Economic Order,

CONSIDERING that the development of international trade on the basis of equality and mutual benefit is an important element in promoting friendly relations among States,

BEING OF THE OPINION that the adoption of uniform rules which govern contracts for the international sale of goods and take into account the different social, economic and legal systems would contribute to the removal of legal barriers in international trade and promote the development of international trade,

HAVE AGREED as follows:

PART I

SPHERE OF APPLICATION AND GENERAL PROVISIONS

Chapter I

SPHERE OF APPLICATION

Article 1

(1) This Convention applies to contracts of sale of goods between parties whose places of business are in different States:

(a) when the States are Contracting States; or

(b) when the rules of private international law lead to the application of the law of a Contracting State.

(2) The fact that the parties have their places of business in different States is to be disregarded whenever this fact does not appear either from the contract or from any dealings between, or from information disclosed by, the parties at any time before or at the conclusion of the contract.

(3) Neither the nationality of the parties nor the civil or commercial character of the parties or of the contract is to be taken into consideration in determining the application of this Convention.

Article 2

This Convention does not apply to sales:

(a) of goods bought for personal, family or household use, unless the seller, at any time before or at the conclusion of the contract, neither knew nor ought to have known that the goods were bought for any such use;

(b) by auction;

(c) on execution or otherwise by authority of law;

(d) of stocks, shares, investment securities, negotiable instruments or money;

(e) of ships, vessels, hovercraft or aircraft;

(f) of electricity.

Article 3

(1) Contracts for the supply of goods to be manufactured or produced are to be considered sales unless the party who orders the goods undertakes to supply a substantial part of the materials necessary for such manufacture or production.

(2) This Convention does not apply to contracts in which the preponderant part of the obligations of the party who furnishes the goods consists in the supply of labour or other services.

Article 4

This Convention governs only the formation of the contract of sale and the rights and obligations of the seller and the buyer arising from such a contract. In particular, except as otherwise expressly provided in this Convention, it is not concerned with:

(a) the validity of the contract or of any of its provisions or of any usage;

(b) the effect which the contract may have on the property in the goods sold.

Article 5

This Convention does not apply to the liability of the seller for death or personal injury caused by the goods to any person.

Article 6

The parties may exclude the application of this Convention or, subject to article 12, derogate from or vary the effect of any of its provisions.

Chapter II

GENERAL PROVISIONS

Article 7

(1) In the interpretation of this Convention, regard is to be had to its international character and to the need to promote uniformity in its application and the observance of good faith in international trade.

(2) Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law.

Article 8

(1) For the purposes of this Convention statements made by and other conduct of a party are to be interpreted according to his intent where the other party knew or could not have been unaware what that intent was.

(2) If the preceding paragraph is not applicable, statements made by and other conduct of a party are to be interpreted according to the understanding that a reasonable person of the same kind as the other party would have had in the same circumstances.

(3) In determining the intent of a party or the understanding a reasonable person would have had, due consideration is to be given to all relevant circumstances of the case including the negotiations, any practices which the parties have established between themselves, usages and any subsequent conduct of the parties.

Article 9

(1) The parties are bound by any usage to which they have agreed and by any practices which they have established between themselves.

(2) The parties are considered, unless otherwise agreed, to have impliedly made applicable to their contract or its formation a usage of which the parties knew or ought to have known and which in international trade is widely known to, and regularly observed by, parties to contracts of the type involved in the particular trade concerned.

Article 10

For the purposes of this Convention:

(a) if a party has more than one place of business, the place of business is that which has the closest relationship to the contract and its performance, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract;

(b) if a party does not have a place of business, reference is to be made to his habitual residence.

Article 11

A contract of sale need not be concluded in or evidenced by writing and is not subject to any other requirement as to form. It may be proved by any means, including witnesses.

Article 12

Any provision of article 11, article 29 or Part II of this Convention that allows a contract of sale or its modification or termination by agreement or any offer, acceptance or other indication of intention to be made in any form other than in writing does not apply where any party has his place of business in a Contracting State which has made a declaration under article 96 of this Convention. The parties may not derogate from or vary the effect of this article.

Article 13

For the purposes of this Convention "writing" includes telegram and telex.

PART II

FORMATION OF THE CONTRACT

Article 14

(1) A proposal for concluding a contract addressed to one or more specific persons constitutes an offer if it is sufficiently definite and indicates the intention of the offeror to be bound in case of acceptance. A proposal is sufficiently definite if it indicates the goods and expressly or implicitly fixes or makes provision for determining the quantity and the price.

(2) A proposal other than one addressed to one or more specific persons is to be considered merely as an invitation to make offers, unless the contrary is clearly indicated by the person making the proposal.

Article 15

(1) An offer becomes effective when it reaches the offeree.

(2) An offer, even if it is irrevocable, may be withdrawn if the withdrawal reaches the offeree before or at the same time as the offer.

Article 16

(1) Until a contract is concluded an offer may be revoked if the revocation reaches the offeree before he has dispatched an acceptance.

(2) However, an offer cannot be revoked:

(a) if it indicates, whether by stating a fixed time for acceptance or otherwise, that it is irrevocable; or

(b) if it was reasonable for the offeree to rely on the offer as being irrevocable and the offeree has acted in reliance on the offer.

Article 17

An offer, even if it is irrevocable, is terminated when a rejection reaches the offeror.

Article 18

(1) A statement made by or other conduct of the offeree indicating assent to an offer is an acceptance. Silence or inactivity does not in itself amount to acceptance.

(2) An acceptance of an offer becomes effective at the moment the indication of assent reaches the offeror. An acceptance is not effective if the indication of assent does not reach the offeror within the time he has fixed or, if no time is fixed, within a reasonable time, due account being taken of the circumstances of the transaction, including the rapidity of the means of communication employed by the offeror. An oral offer must be accepted immediately unless the circumstances indicate otherwise.

(3) However, if, by virtue of the offer or as a result of practices which the parties have established between themselves or of usage, the offeree may indicate assent by performing an act, such as one relating to the dispatch of the goods or payment of the price, without notice to the offeror, the acceptance is effective at the moment the act is performed, provided that the act is performed within the period of time laid down in the preceding paragraph.

Article 19

(1) A reply to an offer which purports to be an acceptance but contains additions, limitations or other modifications is a rejection of the offer and constitutes a counter-offer.

(2) However, a reply to an offer which purports to be an acceptance but contains additional or different terms which do not materially alter the terms of the offer constitutes an acceptance, unless the offeror, without undue delay, objects orally to the discrepancy or dispatches a notice to that effect. If he does not so object, the terms of the contract are the terms of the offer with the modifications contained in the acceptance.

(3) Additional or different terms relating, among other things, to the price, payment, quality and quantity of the goods, place and time of delivery, extent of one party's liability to the other or the settlement of disputes are considered to alter the terms of the offer materially.

Article 20

(1) A period of time for acceptance fixed by the offeror in a telegram or a letter begins to run from the moment the telegram is handed in for dispatch or from the date shown on the letter or, if no such date is shown, from the date shown on the envelope. A period of time for acceptance fixed by the offeror by telephone, telex or other means of instantaneous communication, begins to run from the moment that the offer reaches the offeree.

(2) Official holidays or non-business days occurring during the period for acceptance are included in calculating the period. However, if a notice of acceptance cannot be delivered at the address of the offeror on the last day of the period because that day falls on an official holiday or a non-business day at the place of business of the offeror, the period is extended until the first business day which follows.

Article 21

(1) A late acceptance is nevertheless effective as an acceptance if without delay the offeror orally so informs the offeree or dispatches a notice to that effect.

(2) If a letter or other writing containing a late acceptance shows that it has been sent in such circumstances that if its transmission had been normal it would have reached the offeror in due time, the late acceptance is effective as an acceptance unless, without delay, the offeror orally informs the offeree that he considers his offer as having lapsed or dispatches a notice to that effect.

Article 22

An acceptance may be withdrawn if the withdrawal reaches the offeror before or at the same time as the acceptance would have become effective.

Article 23

A contract is concluded at the moment when an acceptance of an offer becomes effective in accordance with the provisions of this Convention.

Article 24

For the purposes of this Part of the Convention, an offer, declaration of acceptance or any other indication of intention "reaches" the addressee when it is made orally to him or delivered by any other means to him personally, to his place of business or mailing address or, if he does not have a place of business or mailing address, to his habitual residence.

PART III

SALE OF GOODS

Chapter I

GENERAL PROVISIONS

Article 25

A breach of contract committed by one of the parties is fundamental if it results in such detriment to the other party as substantially to deprive him of what he is entitled to expect under the contract, unless the party in breach did not foresee and a reasonable person of the same kind in the same circumstances would not have foreseen such a result.

Article 26

A declaration of avoidance of the contract is effective only if made by notice to the other party.

Article 27

Unless otherwise expressly provided in this Part of the Convention, if any notice, request or other communication is given or made by a party in accordance with this Part and by means appropriate in the circumstances, a delay or error in the transmission of the communication or its failure to arrive does not deprive that party of the right to rely on the communication.

Article 28

If, in accordance with the provisions of this Convention, one party is entitled to require performance of any obligation by the other party, a court is not bound to enter a judgement for specific performance unless the court would do so under its own law in respect of similar contracts of sale not governed by this Convention.

Article 29

(1) A contract may be modified or terminated by the mere agreement of the parties.

(2) A contract in writing which contains a provision requiring any modification or termination by agreement to be in writing may not be otherwise modified or terminated by agreement. However, a party may be precluded by his conduct from asserting such a provision to the extent that the other party has relied on that conduct.

Chapter II

OBLIGATIONS OF THE SELLER

Article 30

The seller must deliver the goods, hand over any documents relating to them and transfer the property in the goods, as required by the contract and this Convention.

Section I. Delivery of the goods and handing over of documents

Article 31

If the seller is not bound to deliver the goods at any other particular place, his obligation to deliver consists:

(a) if the contract of sale involves carriage of the goods - in handing the goods over to the first carrier for transmission to the buyer;

(b) if, in cases not within the preceding subparagraph, the contract relates to specific goods, or unidentified goods to be drawn from a specific stock or to be manufactured or produced, and at the time of the conclusion of the contract the parties knew that the goods were at, or were to be manufactured or produced at, a particular place - in placing the goods at the buyer's disposal at that place;

(c) in other cases - in placing the goods at the buyer's disposal at the place where the seller had his place of business at the time of the conclusion of the contract.

Article 32

(1) If the seller, in accordance with the contract or this Convention, hands the goods over to a carrier and if the goods are not clearly identified to the contract by markings on the goods, by shipping documents or otherwise, the seller must give the buyer notice of the consignment specifying the goods.

(2) If the seller is bound to arrange for carriage of the goods, he must make such contracts as are necessary for carriage to the place fixed by means of transportation appropriate in the circumstances and according to the usual terms for such transportation.

(3) If the seller is not bound to effect insurance in respect of the carriage of the goods, he must, at the buyer's request, provide him with all available information necessary to enable him to effect such insurance.

Article 33

The seller must deliver the goods:

(a) if a date is fixed by or determinable from the contract, on that date;

(b) if a period of time is fixed by or determinable from the contract, at any time within that period unless circumstances indicate that the buyer is to choose a date; or

(c) in any other case, within a reasonable time after the conclusion of the contract.

Article 34

If the seller is bound to hand over documents relating to the goods, he must hand them over at the time and place and in the form required by the contract. If the seller has handed over documents before that time, he may, up to that time, cure any lack of conformity in the documents, if the exercise of this right does not cause the buyer unreasonable inconvenience or unreasonable expense. However, the buyer retains any right to claim damages as provided for in this Convention.

Section II. Conformity of the goods and third party claims

Article 35

(1) The seller must deliver goods which are of the quantity, quality and description required by the contract and which are contained or packaged in the manner required by the contract.

(2) Except where the parties have agreed otherwise, the goods do not conform with the contract unless they:

(a) are fit for the purposes for which goods of the same description would ordinarily be used;

(b) are fit for any particular purpose expressly or impliedly made known to the seller at the time of the conclusion of the contract, except where the circumstances show that the buyer did not rely, or that it was unreasonable for him to rely, on the seller's skill and judgement;

(c) possess the qualities of goods which the seller has held out to the buyer as a sample or model;

(d) are contained or packaged in the manner usual for such goods or, where there is no such manner, in a manner adequate to preserve and protect the goods.

(3) The seller is not liable under subparagraphs (a) to (d) of the preceding paragraph for any lack of conformity of the goods if at the time of the conclusion of the contract the buyer knew or could not have been unaware of such lack of conformity.

Article 36

(1) The seller is liable in accordance with the contract and this Convention for any lack of conformity which exists at the time when the risk passes to the buyer, even though the lack of conformity becomes apparent only after that time.

(2) The seller is also liable for any lack of conformity which occurs after the time indicated in the preceding paragraph and which is due to a breach of any of his obligations, including a breach of any guarantee that for a period of time the goods will remain fit for their ordinary purpose or for some particular purpose or will retain specified qualities or characteristics.

Article 37

If the seller has delivered goods before the date for delivery, he may, up to that date, deliver any missing part or make up any deficiency in the quantity of the goods delivered, or deliver goods in replacement of any non-conforming goods delivered or remedy any lack of conformity in the goods delivered, provided that the exercise of this right does not cause the buyer unreasonable inconvenience or unreasonable expense. However, the buyer retains any right to claim damages as provided for in this Convention.

Article 38

(1) The buyer must examine the goods, or cause them to be examined, within as short a period as is practicable in the circumstances.

(2) If the contract involves carriage of the goods, examination may be deferred until after the goods have arrived at their destination.

(3) If the goods are redirected in transit or redispatched by the buyer without a reasonable opportunity for examination by him and at the time of the conclusion of the contract the seller knew or ought to have known of the possibility of such redirection or redispatch, examination may be deferred until after the goods have arrived at the new destination.

Article 39

(1) The buyer loses the right to rely on a lack of conformity of the goods if he does not give notice to the seller specifying the nature of the lack of conformity within a reasonable time after he has discovered it or ought to have discovered it.

(2) In any event, the buyer loses the right to rely on a lack of conformity of the goods if he does not give the seller notice thereof at the latest within a period of two years from the date on which the goods were actually handed over to the buyer, unless this time-limit is inconsistent with a contractual period of guarantee.

Article 40

The seller is not entitled to rely on the provisions of articles 38 and 39 if the lack of conformity relates to facts of which he knew or could not have been unaware and which he did not disclose to the buyer.

Article 41

The seller must deliver goods which are free from any right or claim of a third party, unless the buyer agreed to take the goods subject to that right or claim. However, if such right or claim is based on industrial property or other intellectual property, the seller's obligation is governed by article 42.

Article 42

(1) The seller must deliver goods which are free from any right or claim of a third party based on industrial property or other intellectual property, of which at the time of the conclusion of the contract the seller knew or could not have been unaware, provided that the right or claim is based on industrial property or other intellectual property:

(a) under the law of the State where the goods will be resold or otherwise used, if it was contemplated by the parties at the time of the conclusion of the contract that the goods would be resold or otherwise used in that State; or

(b) in any other case, under the law of the State where the buyer has his place of business.

(2) The obligation of the seller under the preceding paragraph does not extend to cases where:

(a) at the time of the conclusion of the contract the buyer knew or could not have been unaware of the right or claim; or

(b) the right or claim results from the seller's compliance with technical drawings, designs, formulae or other such specifications furnished by the buyer.

Article 43

(1) The buyer loses the right to rely on the provisions of article 41 or article 42 if he does not give notice to the seller specifying the nature of the right or claim of the third party within a reasonable time after he has become aware or ought to have become aware of the right or claim.

(2) The seller is not entitled to rely on the provisions of the preceding paragraph if he knew of the right or claim of the third party and the nature of it.

Article 44

Notwithstanding the provisions of paragraph (1) of article 39 and paragraph (1) of article 43, the buyer may reduce the price in accordance with article 50 or claim damages, except for loss of profit, if he has a reasonable excuse for his failure to give the required notice.

Section III. Remedies for breach of contract by the seller

Article 45

(1) If the seller fails to perform any of his obligations under the contract or this Convention, the buyer may:

(a) exercise the rights provided in articles 46 to 52;

(b) claim damages as provided in articles 74 to 77.

(2) The buyer is not deprived of any right he may have to claim damages by exercising his right to other remedies.

(3) No period of grace may be granted to the seller by a court or arbitral tribunal when the buyer resorts to a remedy for breach of contract.

Article 46

(1) The buyer may require performance by the seller of his obligations unless the buyer has resorted to a remedy which is inconsistent with this requirement.

(2) If the goods do not conform with the contract, the buyer may require delivery of substitute goods only if the lack of conformity constitutes a fundamental breach of contract and a request for substitute goods is made either in conjunction with notice given under article 39 or within a reasonable time thereafter.

(3) If the goods do not conform with the contract, the buyer may require the seller to remedy the lack of conformity by repair, unless this is unreasonable having regard to all the circumstances. A request for repair must be made either in conjunction with notice given under article 39 or within a reasonable time thereafter.

Article 47

(1) The buyer may fix an additional period of time of reasonable length for performance by the seller of his obligations.

(2) Unless the buyer has received notice from the seller that he will not perform within the period so fixed, the buyer may not, during that period, resort to any remedy for breach of contract. However, the buyer is not deprived thereby of any right he may have to claim damages for delay in performance.

Article 48

(1) Subject to article 49, the seller may, even after the date for delivery, remedy at his own expense any failure to perform his obligations, if he can do so without unreasonable delay and without causing the buyer unreasonable inconvenience or uncertainty of reimbursement by the seller of expenses advanced by the buyer. However, the buyer retains any right to claim damages as provided for in this Convention.

(2) If the seller requests the buyer to make known whether he will accept performance and the buyer does not comply with the request within a reasonable time, the seller may perform within the time indicated in his request. The buyer may not, during that period of time, resort to any remedy which is inconsistent with performance by the seller.

(3) A notice by the seller that he will perform within a specified period of time is assumed to include a request, under the preceding paragraph, that the buyer make known his decision.

(4) A request or notice by the seller under paragraph (2) or (3) of this article is not effective unless received by the buyer.

Article 49

(1) The buyer may declare the contract avoided:

(a) if the failure by the seller to perform any of his obligations under the contract or this Convention amounts to a fundamental breach of contract; or

(b) in case of non-delivery, if the seller does not deliver the goods within the additional period of time fixed by the buyer in accordance with paragraph (1) of article 47 or declares that he will not deliver within the period so fixed.

(2) However, in cases where the seller has delivered the goods, the buyer loses the right to declare the contract avoided unless he does so:

(a) in respect of late delivery, within a reasonable time after he has become aware that delivery has been made;

(b) in respect of any breach other than late delivery, within a reasonable time:

(i) after he knew or ought to have known of the breach;

(ii) after the expiration of any additional period of time fixed by the buyer in accordance with paragraph (1) of article 47, or after the seller has declared that he will not perform his obligations within such an additional period; or

(iii) after the expiration of any additional period of time indicated by the seller in accordance with paragraph (2) of article 48, or after the buyer has declared that he will not accept performance.

Article 50

If the goods do not conform with the contract and whether or not the price has already been paid, the buyer may reduce the price in the same proportion as the value that the goods actually delivered had at the time of the delivery bears to the value that conforming goods would have had at that time. However, if the seller remedies any failure to perform his obligations in accordance with article 37 or article 48 or if the buyer refuses to accept performance by the seller in accordance with those articles, the buyer may not reduce the price.

Article 51

(1) If the seller delivers only a part of the goods or if only a part of the goods delivered is in conformity with the contract, articles 46 to 50 apply in respect of the part which is missing or which does not conform.

(2) The buyer may declare the contract avoided in its entirety only if the failure to make delivery completely or in conformity with the contract amounts to a fundamental breach of the contract.

Article 52

(1) If the seller delivers the goods before the date fixed, the buyer may take delivery or refuse to take delivery.

(2) If the seller delivers a quantity of goods greater than that provided for in the contract, the buyer may take delivery or refuse to take delivery of the excess quantity. If the buyer takes delivery of all or part of the excess quantity, he must pay for it at the contract rate.

Chapter III

OBLIGATIONS OF THE BUYER

Article 53

The buyer must pay the price for the goods and take delivery of them as required by the contract and this Convention.

Section I. Payment of the price

Article 54

The buyer's obligation to pay the price includes taking such steps and complying with such formalities as may be required under the contract or any laws and regulations to enable payment to be made.

Article 55

Where a contract has been validly concluded but does not expressly or implicitly fix or make provision for determining the price, the parties are considered, in the absence of any indication to the contrary, to have impliedly made reference to the price generally charged at the time of the conclusion of the contract for such goods sold under comparable circumstances in the trade concerned.

Article 56

If the price is fixed according to the weight of the goods, in case of doubt it is to be determined by the net weight.

Article 57

(1) If the buyer is not bound to pay the price at any other particular place, he must pay it to the seller:

(a) at the seller's place of business; or

(b) if the payment is to be made against the handing over of the goods or of documents, at the place where the handing over takes place.

(2) The seller must bear any increase in the expenses incidental to payment which is caused by a change in his place of business subsequent to the conclusion of the contract.

Article 58

(1) If the buyer is not bound to pay the price at any other specific time, he must pay it when the seller places either the goods or documents controlling their disposition at the buyer's disposal in accordance with the contract and this Convention. The seller may make such payment a condition for handing over the goods or documents.

(2) If the contract involves carriage of the goods, the seller may dispatch the goods on terms whereby the goods, or documents controlling their disposition, will not be handed over to the buyer except against payment of the price.

(3) The buyer is not bound to pay the price until he has had an opportunity to examine the goods, unless the procedures for delivery or payment agreed upon by the parties are inconsistent with his having such an opportunity.

Article 59

The buyer must pay the price on the date fixed by or determinable from the contract and this Convention without the need for any request or compliance with any formality on the part of the seller.

Section II. Taking delivery

Article 60

The buyer's obligation to take delivery consists:

(a) in doing all the acts which could reasonably be expected of him in order to enable the seller to make delivery; and

(b) in taking over the goods.

Section III. Remedies for breach of contract by the buyer

Article 61

(1) If the buyer fails to perform any of his obligations under the contract or this Convention, the seller may:

(a) exercise the rights provided in articles 62 to 65;

(b) claim damages as provided in articles 74 to 77.

(2) The seller is not deprived of any right he may have to claim damages by exercising his right to other remedies.

(3) No period of grace may be granted to the buyer by a court or arbitral tribunal when the seller resorts to a remedy for breach of contract.

Article 62

The seller may require the buyer to pay the price, take delivery or perform his other obligations, unless the seller has resorted to a remedy which is inconsistent with this requirement.

Article 63

(1) The seller may fix an additional period of time of reasonable length for performance by the buyer of his obligations.

(2) Unless the seller has received notice from the buyer that he will not perform within the period so fixed, the seller may not, during that period, resort to any remedy for breach of contract. However, the seller is not deprived thereby of any right he may have to claim damages for delay in performance.

Article 64

(1) The seller may declare the contract avoided:

(a) if the failure by the buyer to perform any of his obligations under the contract or this Convention amounts to a fundamental breach of contract; or

(b) if the buyer does not, within the additional period of time fixed by the seller in accordance with paragraph (1) of article 63, perform his obligation to pay the price or take delivery of the goods, or if he declares that he will not do so within the period so fixed.

(2) However, in cases where the buyer has paid the price, the seller loses the right to declare the contract avoided unless he does so:

(a) in respect of late performance by the buyer, before the seller has become aware that performance has been rendered; or

(b) in respect of any breach other than late performance by the buyer, within a reasonable time:

(i) after the seller knew or ought to have known of the breach; or

(ii) after the expiration of any additional period of time fixed by the seller in accordance with paragraph (1) of article 63, or after the buyer has declared that he will not perform his obligations within such an additional period.

Article 65

(1) If under the contract the buyer is to specify the form, measurement or other features of the goods and he fails to make such specification either on the date agreed upon or within a reasonable time after receipt of a request from the seller, the seller may, without prejudice to any other rights he may have, make the specification himself in accordance with the requirements of the buyer that may be known to him.

(2) If the seller makes the specification himself, he must inform the buyer of the details thereof and must fix a reasonable time within which the buyer may make a different specification. If, after receipt of such a communication, the buyer fails to do so within the time so fixed, the specification made by the seller is binding.

Chapter IV

PASSING OF RISK

Article 66

Loss of or damage to the goods after the risk has passed to the buyer does not discharge him from his obligation to pay the price, unless the loss or damage is due to an act or omission of the seller.

Article 67

(1) If the contract of sale involves carriage of the goods and the seller is not bound to hand them over at a particular place, the risk passes to the buyer when the goods are handed over to the first carrier for transmission to the buyer in accordance with the contract of sale. If the seller is bound to hand the goods over to a carrier at a particular place, the risk does not pass to the buyer until the goods are handed over to the carrier at that place. The fact that the seller is authorized to retain documents controlling the disposition of the goods does not affect the passage of the risk.

(2) Nevertheless, the risk does not pass to the buyer until the goods are clearly identified to the contract, whether by markings on the goods, by shipping documents, by notice given to the buyer or otherwise.

Article 68

The risk in respect of goods sold in transit passes to the buyer from the time of the conclusion of the contract. However, if the circumstances so indicate, the risk is assumed by the buyer from the time the goods were handed over to the carrier who issued the documents embodying the contract of carriage. Nevertheless, if at the time of the conclusion of the contract of sale the seller knew or ought to have known that the goods had been lost or damaged and did not disclose this to the buyer, the loss or damage is at the risk of the seller.

Article 69

(1) In cases not within articles 67 and 68, the risk passes to the buyer when he takes over the goods or, if he does not do so in due time, from the time when the goods are placed at his disposal and he commits a breach of contract by failing to take delivery.

(2) However, if the buyer is bound to take over the goods at a place other than a place of business of the seller, the risk passes when delivery is due and the buyer is aware of the fact that the goods are placed at his disposal at that place.

(3) If the contract relates to goods not then identified, the goods are considered not to be placed at the disposal of the buyer until they are clearly identified to the contract.

Article 70

If the seller has committed a fundamental breach of contract, articles 67, 68 and 69 do not impair the remedies available to the buyer on account of the breach.

Chapter V

PROVISIONS COMMON TO THE OBLIGATIONS OF THE SELLER AND OF THE BUYER

Section I. Anticipatory breach and instalment contracts

Article 71

(1) A party may suspend the performance of his obligations if, after the conclusion of the contract, it becomes apparent that the other party will not perform a substantial part of his obligations as a result of:

(a) a serious deficiency in his ability to perform or in his creditworthiness; or

(b) his conduct in preparing to perform or in performing the contract.

(2) If the seller has already dispatched the goods before the grounds described in the preceding paragraph become evident, he may prevent the handing over of the goods to the buyer even though the buyer holds a document which entitles him to obtain them. The present paragraph relates only to the rights in the goods as between the buyer and the seller.

(3) A party suspending performance, whether before or after dispatch of the goods, must immediately give notice of the suspension to the other party and must continue with performance if the other party provides adequate assurance of his performance.

Article 72

(1) If prior to the date for performance of the contract it is clear that one of the parties will commit a fundamental breach of contract, the other party may declare the contract avoided.

(2) If time allows, the party intending to declare the contract avoided must give reasonable notice to the other party in order to permit him to provide adequate assurance of his performance.

(3) The requirements of the preceding paragraph do not apply if the other party has declared that he will not perform his obligations.

Article 73

(1) In the case of a contract for delivery of goods by instalments, if the failure of one party to perform any of his obligations in respect of any instalment constitutes a fundamental breach of contract with respect to that instalment, the other party may declare the contract avoided with respect to that instalment.

(2) If one party's failure to perform any of his obligations in respect of any instalment gives the other party good grounds to conclude that a fundamental breach of contract will occur with respect to future instalments, he may declare the contract avoided for the future, provided that he does so within a reasonable time.

(3) A buyer who declares the contract avoided in respect of any delivery may, at the same time, declare it avoided in respect of deliveries already made or of future deliveries if, by reason of their interdependence, those deliveries could not be used for the purpose contemplated by the parties at the time of the conclusion of the contract.

Section II. Damages

Article 74

Damages for breach of contract by one party consist of a sum equal to the loss, including loss of profit, suffered by the other party as a consequence of the breach. Such damages may not exceed the loss which the party in breach foresaw or ought to have foreseen at the time of the conclusion of the contract, in the light of the facts and matters of which he then knew or ought to have known, as a possible consequence of the breach of contract.

Article 75

If the contract is avoided and if, in a reasonable manner and within a reasonable time after avoidance, the buyer has bought goods in replacement or the seller has resold the goods, the party claiming damages may recover the difference between the contract price and the price in the substitute transaction as well as any further damages recoverable under article 74.

Article 76

(1) If the contract is avoided and there is a current price for the goods, the party claiming damages may, if he has not made a purchase or resale under article 75, recover the difference between the price fixed by the contract and the current price at the time of avoidance as well as any further damages recoverable under article 74. If, however, the party claiming damages has avoided the contract after taking over the goods, the current price at the time of such taking over shall be applied instead of the current price at the time of avoidance.

(2) For the purposes of the preceding paragraph, the current price is the price prevailing at the place where delivery of the goods should have been made or, if there is no current price at that place, the price at such other place as serves as a reasonable substitute, making due allowance for differences in the cost of transporting the goods.

Article 77

A party who relies on a breach of contract must take such measures as are reasonable in the circumstances to mitigate the loss, including loss of profit, resulting from the breach. If he fails to take such measures, the party in breach may claim a reduction in the damages in the amount by which the loss should have been mitigated.

Section III. Interest

Article 78

If a party fails to pay the price or any other sum that is in arrears, the other party is entitled to interest on it, without prejudice to any claim for damages recoverable under article 74.

Section IV. Exemptions

Article 79

(1) A party is not liable for a failure to perform any of his obligations if he proves that the failure was due to an impediment beyond his control and that he could not reasonably be expected to have taken the impediment into account at the time of the conclusion of the contract or to have avoided or overcome it or its consequences.

(2) If the party's failure is due to the failure by a third person whom he has engaged to perform the whole or a part of the contract, that party is exempt from liability only if:

(a) he is exempt under the preceding paragraph; and

(b) the person whom he has so engaged would be so exempt if the provisions of that paragraph were applied to him.

(3) The exemption provided by this article has effect for the period during which the impediment exists.

(4) The party who fails to perform must give notice to the other party of the impediment and its effect on his ability to perform. If the notice is not received by the other party within a reasonable time after the party who fails to perform knew or ought to have known of the impediment, he is liable for damages resulting from such non-receipt.

(5) Nothing in this article prevents either party from exercising any right other than to claim damages under this Convention.

Article 80

A party may not rely on a failure of the other party to perform, to the extent that such failure was caused by the first party's act or omission.

Section V. Effects of avoidance

Article 81

(1) Avoidance of the contract releases both parties from their obligations under it, subject to any damages which may be due. Avoidance does not affect any provision of the contract for the settlement of disputes or any other provision of the contract governing the rights and obligations of the parties consequent upon the avoidance of the contract.

(2) A party who has performed the contract either wholly or in part may claim restitution from the other party of whatever the first party has supplied or paid under the contract. If both parties are bound to make restitution, they must do so concurrently.

Article 82

(1) The buyer loses the right to declare the contract avoided or to require the seller to deliver substitute goods if it is impossible for him to make restitution of the goods substantially in the condition in which he received them.

(2) The preceding paragraph does not apply:

(a) if the impossibility of making restitution of the goods or of making restitution of the goods substantially in the condition in which the buyer received them is not due to his act or omission;

(b) if the goods or part of the goods have perished or deteriorated as a result of the examination provided for in article 38; or

(c) if the goods or part of the goods have been sold in the normal course of business or have been consumed or transformed by the buyer in the course of normal use before he discovered or ought to have discovered the lack of conformity.

Article 83

A buyer who has lost the right to declare the contract avoided or to require the seller to deliver substitute goods in accordance with article 82 retains all other remedies under the contract and this Convention.

Article 84

(1) If the seller is bound to refund the price, he must also pay interest on it, from the date on which the price was paid.

(2) The buyer must account to the seller for all benefits which he has derived from the goods or part of them:

(a) if he must make restitution of the goods or part of them; or

(b) if it is impossible for him to make restitution of all or part of the goods or to make restitution of all or part of the goods substantially in the condition in which he received them, but he has nevertheless declared the contract avoided or required the seller to deliver substitute goods.

Section VI. Preservation of the goods

Article 85

If the buyer is in delay in taking delivery of the goods or, where payment of the price and delivery of the goods are to be made concurrently, if he fails to pay the price, and the seller is either in possession of the goods or otherwise able to control their disposition, the seller must take such steps as are reasonable in the circumstances to preserve them. He is entitled to retain them until he has been reimbursed his reasonable expenses by the buyer.

Article 86

(1) If the buyer has received the goods and intends to exercise any right under the contract or this Convention to reject them, he must take such steps to preserve them as are reasonable in the circumstances. He is entitled to retain them until he has been reimbursed his reasonable expenses by the seller.

(2) If goods dispatched to the buyer have been placed at his disposal at their destination and he exercises the right to reject them, he must take possession of them on behalf of the seller, provided that this can be done without payment of the price and without unreasonable inconvenience or unreasonable expense. This provision does not apply if the seller or a person authorized to take charge of the goods on his behalf is present at the destination. If the buyer takes possession of the goods under this paragraph, his rights and obligations are governed by the preceding paragraph.

Article 87

A party who is bound to take steps to preserve the goods may deposit them in a warehouse of a third person at the expense of the other party provided that the expense incurred is not unreasonable.

Article 88

(1) A party who is bound to preserve the goods in accordance with article 85 or 86 may sell them by any appropriate means if there has been an unreasonable delay by the other party in taking possession of the goods or in taking them back or in paying the price or the cost of preservation, provided that reasonable notice of the intention to sell has been given to the other party.

(2) If the goods are subject to rapid deterioration or their preservation would involve unreasonable expense, a party who is bound to preserve the goods in accordance with article 85 or 86 must take reasonable measures to sell them. To the extent possible he must give notice to the other party of his intention to sell.

(3) A party selling the goods has the right to retain out of the proceeds of sale an amount equal to the reasonable expenses of preserving the goods and of selling them. He must account to the other party for the balance.

PART IV

FINAL PROVISIONS

Article 89

The Secretary-General of the United Nations is hereby designated as the depositary for this Convention.

Article 90

This Convention does not prevail over any international agreement which has already been or may be entered into and which contains provisions concerning the matters governed by this Convention, provided that the parties have their places of business in States parties to such agreement.

Article 91

(1) This Convention is open for signature at the concluding meeting of the United Nations Conference on Contracts for the International Sale of Goods and will remain open for signature by all States at the Headquarters of the United Nations, New York until 30 September 1981.

(2) This Convention is subject to ratification, acceptance or approval by the signatory States.

(3) This Convention is open for accession by all States which are not signatory States as from the date it is open for signature.

(4) Instruments of ratification, acceptance, approval and accession are to be deposited with the Secretary-General of the United Nations.

Article 92

(1) A Contracting State may declare at the time of signature, ratification, acceptance, approval or accession that it will not be bound by Part II of this Convention or that it will not be bound by Part III of this Convention.

(2) A Contracting State which makes a declaration in accordance with the preceding paragraph in respect of Part II or Part III of this Convention is not to be considered a Contracting State within paragraph (1) of article 1 of this Convention in respect of matters governed by the Part to which the declaration applies.

Article 93

(1) If a Contracting State has two or more territorial units in which, according to its constitution, different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.

(2) These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.

(3) If, by virtue of a declaration under this article, this Convention extends to one or more but not all of the territorial units of a Contracting State, and if the place of business of a party is located in that State, this place of business, for the purposes of this Convention, is considered not to be in a Contracting State, unless it is in a territorial unit to which the Convention extends.

(4) If a Contracting State makes no declaration under paragraph (1) of this article, the Convention is to extend to all territorial units of that State.

Article 94

(1) Two or more Contracting States which have the same or closely related legal rules on matters governed by this Convention may at any time declare that the Convention is not to apply to contracts of sale or to their formation where the parties have their places of business in those States. Such declarations may be made jointly or by reciprocal unilateral declarations.

(2) A Contracting State which has the same or closely related legal rules on matters governed by this Convention as one or more non-Contracting States may at any time declare that the Convention is not to apply to contracts of sale or to their formation where the parties have their places of business in those States.

(3) If a State which is the object of a declaration under the preceding paragraph subsequently becomes a Contracting State, the declaration made will, as from the date on which the Convention enters into force in respect of the new Contracting State, have the effect of a declaration made under paragraph (1), provided that the new Contracting State joins in such declaration or makes a reciprocal unilateral declaration.

Article 95

Any State may declare at the time of the deposit of its instrument of ratification, acceptance, approval or accession that it will not be bound by subparagraph (1)(b) of article 1 of this Convention.

Article 96

A Contracting State whose legislation requires contracts of sale to be concluded in or evidenced by writing may at any time make a declaration in accordance with article 12 that any provision of article 11, article 29, or Part II of this Convention, that allows a contract of sale or its modification or termination by agreement or any offer, acceptance, or other indication of intention to be made in any form other than in writing, does not apply where any party has his place of business in that State.

Article 97

(1) Declarations made under this Convention at the time of signature are subject to confirmation upon ratification, acceptance or approval.

(2) Declarations and confirmations of declarations are to be in writing and be formally notified to the depositary.

(3) A declaration takes effect simultaneously with the entry into force of this Convention in respect of the State concerned. However, a declaration of which the depositary receives formal notification after such entry into force takes effect on the first day of the month following the expiration of six months after the date of its receipt by the depositary. Reciprocal unilateral declarations under article 94 take effect on the first day of the month following the expiration of six months after the receipt of the latest declaration by the depositary.

... to the 1964 Hague Formation Convention which ratifies, accepts, ... declared under

(4) Any State which makes a declaration under this Convention may withdraw it at any time by a formal notification in writing addressed to the depositary. Such withdrawal is to take effect on the first day of the month following the expiration of six months after the date of the receipt of the notification by the depositary.

(5) A withdrawal of a declaration made under article 94 renders inoperative, as from the date on which the withdrawal takes effect, any reciprocal declaration made by another State under that article.

Article 98

No reservations are permitted except those expressly authorized in this Convention.

Article 99

(1) This Convention enters into force, subject to the provisions of paragraph (6) of this article, on the first day of the month following the expiration of twelve months after the date of deposit of the tenth instrument of ratification, acceptance, approval or accession, including an instrument which contains a declaration made under article 92.

(2) When a State ratifies, accepts, approves or accedes to this Convention after the deposit of the tenth instrument of ratification, acceptance, approval or accession, this Convention, with the exception of the Part excluded, enters into force in respect of that State, subject to the provisions of paragraph (6) of this article, on the first day of the month following the expiration of twelve months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

(3) A State which ratifies, accepts, approves or accedes to this Convention and is a party to either or both the Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods done at The Hague on 1 July 1964 (1964 Hague Formation Convention) and the Convention relating to a Uniform Law on the International Sale of Goods done at The Hague on 1 July 1964 (1964 Hague Sales Convention) shall at the same time denounce, as the case may be, either or both the 1964 Hague Sales Convention and the 1964 Hague Formation Convention by notifying the Government of the Netherlands to that effect.

(4) A State party to the 1964 Hague Sales Convention which ratifies, accepts, approves or accedes to the present Convention and declares or has declared under article 92 that it will not be bound by Part II of this Convention shall at the time of ratification, acceptance, approval or accession denounce the 1964 Hague Sales Convention by notifying the Government of the Netherlands to that effect.

(5) A State party to the 1964 Hague Formation Convention which ratifies, accepts, approves or accedes to the present Convention and declares or has declared under article 92 that it will not be bound by Part III of this Convention shall at the time of ratification, acceptance, approval or accession denounce the 1964 Hague Formation Convention by notifying the Government of the Netherlands to that effect.

(6) For the purpose of this article, ratifications, acceptances, approvals and accessions in respect of this Convention by States parties to the 1964 Hague Formation Convention or to the 1964 Hague Sales Convention shall not be effective until such denunciations as may be required on the part of those States in respect of the latter two Conventions have themselves become effective. The depositary of this Convention shall consult with the Government of the Netherlands, as the depositary of the 1964 Conventions, so as to ensure necessary co-ordination in this respect.

Article 100

(1) This Convention applies to the formation of a contract only when the proposal for concluding the contract is made on or after the date when the Convention enters into force in respect of the Contracting States referred to in subparagraph (1)(a) or the Contracting State referred to in subparagraph (1)(b) of article 1.

(2) This Convention applies only to contracts concluded on or after the date when the Convention enters into force in respect of the Contracting States referred to in subparagraph (1)(a) or the Contracting State referred to in subparagraph (1)(b) of article 1.

Article 101

(1) A Contracting State may denounce this Convention, or Part II or Part III of the Convention, by a formal notification in writing addressed to the depositary.

(2) The denunciation takes effect on the first day of the month following the expiration of twelve months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation takes effect upon the expiration of such longer period after the notification is received by the depositary.

DONE at Vienna, this day of eleventh day of April, one thousand nine hundred and eighty, in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized by their respective Governments, have signed this Convention.

[FR Doc. 87-4205 Filed 2-27-87; 8:45 am]

BILLING CODE 4710-08-C

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 87-010]

Coast Guard Academy Advisory Committee; Open Meeting

AGENCY: Coast Guard, DOT.
ACTION: Open Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held in Hamilton Hall at the U.S. Coast Guard Academy, New London, CT on Monday, Tuesday, and Wednesday, April 13, 14, and 15, 1987. Open Sessions will be held from 1:30 p.m. to 3:30 p.m. on Monday, and 9:00 a.m. to 11:00 a.m. on Tuesday and Wednesday. The agenda for this meeting remains a review of the Academy faculty and curricula. The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75–38 to advise on the course of instruction at the Academy and to make recommendations as necessary. Attendance is open to the interested public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to attend or present oral statements at the meeting should notify the U.S. Coast Guard Academy not later than the day before the meeting. Any member of the public may present a written statement to the Committee at anytime.

FOR FURTHER INFORMATION CONTACT: CAPT David A. Sandell, USCG, Dean of Academics/Executive Secretary of the Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT 06320, phone (203) 444–8275.

Issued in Washington, DC, on February 18, 1987.

J.C. Irwin,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 87–4309 Filed 2–27–87; 8:45 am]

BILLING CODE 4910–14–M

[CGD 81–057]

Authorization To Proceed Under a General Brigade Permit; Determination of Categorical Exclusion Under NEPA

AGENCY: Coast Guard, DOT.
ACTION: Notice.

SUMMARY: The Coast Guard has proposed establishing a General Bridge Permit (GBP) program under which bridges meeting specified criteria may be constructed or modified. Application under the GBP would receive expedited review and, if approved, the Coast Guard would issue an Authorization to Proceed. The Coast Guard is considering that the issuance of an Authorization to Proceed be categorically excluded from the environmental documentation requirements of the National Environmental Policy Act (NEPA). This action is justified because only bridge construction or modification projects which do not have a significant effect on the quality of the human environment are eligible under the GBP. This action will eliminate the need for the preparation of a separate Environmental Assessment and a Finding of No Significant Impact for each request for authorization to proceed.

DATE: Comments must be submitted on or before April 1, 1987.

ADDRESS: Comments should be mailed to Commandant (G–NBR/14), U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20593. Comments are available for inspection or copying at the office of the Bridge Permit Branch, Room 1410, at the above address, between the hours of 9:30 a.m. and 5:00 p.m., Monday through Friday, except holidays. The telephone number is (202) 267–0371.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Bonomo, Bridge Permits Branch, Office of Navigation, (202) 267–0371.

SUPPLEMENTARY INFORMATION: Ordinarily under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), before granting permission to construct or modify a bridge across the navigable waters of the United States, the Coast Guard District Commander would be required to assess the impact of the project on the environment.

On April 24, 1986, the Coast Guard published a Supplementary Notice of Proposed Rulemakng (51 FR 15503) to establish a General Bridge Permit (GBP) applicable to bridge construction or modification projects which meet certain enumerated criteria. The criteria are designed to exclude from eligibility under the GBP, all projects which have or could have a significant effect on the quality of the human environment. Parties seeking permission to construct or modify a bridge under the GBP program must submit a detailed application addressing these criteria. The District Commander must be satisfied that the criteria for the GBP are met. However, because the environmental impact of projects meeting the criteria have already been addressed, both individually and cumulatively during the rulemaking process, there does not appear to be a need for further assessment of the environmental impact before issuing an Authorization to Proceed for an individual project under the GBP. The Coast Guard is considering making a determination that issuing an Authorization to Proceed is categorically excluded from further environmental review under NEPA. Comments received in response to this notice will be considered before a final determination is made.

The Environmental Assessment and Findings of No Significant Impact on which this determination is based are available for inspection at the office under "**ADDRESS.**"

February 24, 1987.

Martin H. Daniell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 87–4310 Filed 2–27–87; 8:45 am]

BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

[Docket No. 73–19, Notice 34]

Evaluation Report on the Bumper Standard; Request for Comments

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Request for comments.

SUMMARY: This notice announces that publication by NHTSA of an Evaluation Report concerning the Bumper Standard. This staff report evaluates actual benefits, costs and cost effectiveness of bumper systems changed in response to the modification of the standard, from 5 to 2.5 mph. The report was developed in response to Executive Order 12291, which provides for Government-wide review of existing major Federal regulations. The agency seeks public review on this evaluation. Comments received will be used to complete the review required by Executive Order 12291.

DATE: Comments must be received no later than June 1, 1987.

ADDRESSES: Interested persons may obtain a copy of the report free of charge by sending a self-addressed mailing label to Ms. Glorious Harris (NAD–51), National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC, 20590. All

comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC, 20590. [Docket hours, 8:00 a.m.–4:00 p.m., Monday through Friday.].

FOR FURTHER INFORMATION CONTACT: Mr. Frank G. Ephraim, Director, Office of Standards Evaluation, Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC, 20590 (202–426–1574).

SUPPLEMENTARY INFORMATION: An evaluation of the Bumper Standard (49 CFR Part 581) was conducted to determine actual benefits and costs and cost effectiveness of bumper systems changed in response to amendments made in 1982 (47 FR 21820, May 20, 1982). These amendments, effective July 6, 1982, reduced required damage resistance for passenger car bumpers from 5 mph longitudinal front and rear barrier and pendulum impacts and 3 mph corner pendulum impacts to 2.5 and 1.5 mph, respectively. The requirement that there be no damage to the bumper itself beyond a ⅜ inch "dent" and ¾ inch "set" (or displacement) from original position was changed to allow damage to the bumper itself while still requiring no damage to safety-related parts and exterior surfaces not involving the bumper. The evaluation was conducted under requirements of Executive Orders 12291 and 12498.

The evaluation compares collision damage experience and bumper system costs of 1983/84 models (post-standard modification) to a two year baseline of 1981/82 models (pre-modification). Manufacturers were selective in responding to the new minimum requirements, with only 35 percent of the cars sold in the U.S. in 1983 being equipped wih bumpers that were *changed* in a way which reduced collision damage resistance when compared to the predecessor 1981/82 models. By the 1984 model year, slightly over 50 percent of models sold were equipped with bumpers changed in comparison to 1981/82 models.

The principal findings and conclusions are:

(1) The costs to consumers have not changed as a result of the modification of the bumper standard from 5 to 2.5 mph;

(2) The net effect, over a car's 10-year life, is a small increase in repair cost, which is offset by a reduction in the cost of the bumpers;

(3) The change in the bumper standards has not affected the protection of safety-related parts.

NHTSA welcomes public review of the evaluation report and invites the public to submit comments.

It is requested but not required that 10 copies of comments be submitted.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the post card by mail.

(15 U.S.C. 1392, 1407, 1912; delegation of authority at 49 CFR 1.50 and 501.8)

Issued on: February 20, 1987.

Adele Spielberger,

Associate Administrator for Plans and Policy.

[FR Doc. 87–4242 Filed 2–27–87; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. IP85–9; Notice 2]

General Motors Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by General Motors Corporation of Warren, Michigan to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.105, Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems*. The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on June 17, 1985 and an opportunity afforded for comment (50 FR 25150).

Paragraph S5.3.2 of Federal Motor Vehicle Safety Standard No. 105, requires that the brake system indicator lamps be activated as a check when the ignition is turned on or during starting in a position designated by the manufacturer. General Motors produced 24,051 1984 model year Chevrolet Camaro Berlinetta vehicles, manufactured prior to mid-December 1984, in which the brake warning lamp did not light up as a check function.

General Motors stated that the brake failure warning circuit was not affected by this noncompliance. In addition, the lamp is illuminated when the parking brake is applied; application of the parking brake thus serves as a check of the lamp, and is part of the vehicle starting procedure recommended by the Owners Manual. General Motors also claimed that this condition could only prove hazardous to motor vehicle safety if it so happens that the bulb fails prior to a brake system hydraulic failure; instrument cluster lamps rarely fail as they are expected to last the life of the car. General Motors stated that the number of vehicles involved is both fixed and relatively small.

One comment was received on the petition, opposing it on the grounds that GM should notify owners and explain how the check function works.

Subsequent to the **Federal Register** notice, in August 1986 the petitioner wrote owners of all affected Camaros, advising them of the purpose of a check lamp function, and advising them to apply the parking brake whenever their cars were parked to monitor that function. It further advised them to place the letter with the Owner's Manual to serve as a reminder to them and to other operators of the Camaros. In addition, Chevrolet dealers were provided wiring schematics of the differing check systems. Although the advisories to owners and dealers were not notifications fulfilling the formal requirements of 49 CFR Part 577, the agency, which has granted several similar inconsequentiality petitions where advisories were not provided, considers them sufficient under the circumstances to call the attention of owners of the affected vehicles to the *modus operandi* of the check function.

Accordingly, it is hereby found that petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 24, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87–4209 Filed 2–27–87; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

[Order No. 101–05]

Delegation of Certain Authority, and Order of Succession

Dated: February 17, 1987.

By virtue of the authority vested in me as Secretary of the Treasury, including the authority vested in me by 31 U.S.C. 321(b), it is ordered that:

1. The Deputy Secretary shall be under the direct supervision of the Secretary.

2. The following officials shall be under the supervision of the Secretary, shall report to the Secretary through the Deputy Secretary, and shall, except as noted below, exercise supervision over

those officers and organizational entities set forth on the attached organizational chart:

Under Secretary of the Treasury for Finance
General Counsel
Assistant Secretary (Enforcement)
Assistant Secretary (International Affairs)
Assistant Secretary (Legislative Affairs)
Assistant Secretary of the Treasury (Management)
Assistant Secretary (Public Affairs and Public Liaison)
Assistant Secretary (Tax Policy)
Executive Secretary
Comptroller of the Currency
Commissioner of Internal Revenue
Inspector General

3. The Tax Legislative Counsel and International Tax Counsel provide counsel directly to the Assistant Secretary (Tax Policy), but are supervised by the General Counsel as part of the Department's Legal Division.

4. The following officials shall be under the supervision of the Under Secretary for Finance, and shall exercise supervision over those officers and the organizational entities set forth on the attached organizational chart:

Treasurer of the United States
Assistant Secretary (Domestic Finance)
Assistant Secretary (Economic Policy)
Fiscal Assistant Secretary

5. The Deputy Secretary, the Under Secretary of the Treasury for Finance, the General Counsel, and the Assistant Secretaries are authorized to perform any functions the Secretary is authorized to perform. Each of these officials shall perform functions under this authority in his or her own capacity and under his or her own title and shall be responsible for referring to the Secretary any matter on which action would appropriately be taken by the Secretary. Each of these officials will ordinarily perform under this authority only functions which arise out of, relate to, or concern the activities or functions of, or the laws administered by or relating to, the bureaus, offices, or other organizational units over which the incumbent has supervision. Any action heretofore taken by any of these officials in the incumbent's own capacity and under his or her own title is hereby affirmed and ratified as the action of the Secretary.

6. The following officers shall, in the order of succession indicated, act as Secretary of the Treasury in case of the death, resignation, absence, or sickness of the Secretary and other officers succeeding the incumbent, until a successor is appointed, or until the absence or sickness shall cease:

a. Deputy Secretary;
b. Under Secretary of the Treasury for Finance;
c. General Counsel; and
d. Assistant Secretaries, appointed by the President with Senate confirmation, in the order designed by the Secretary.

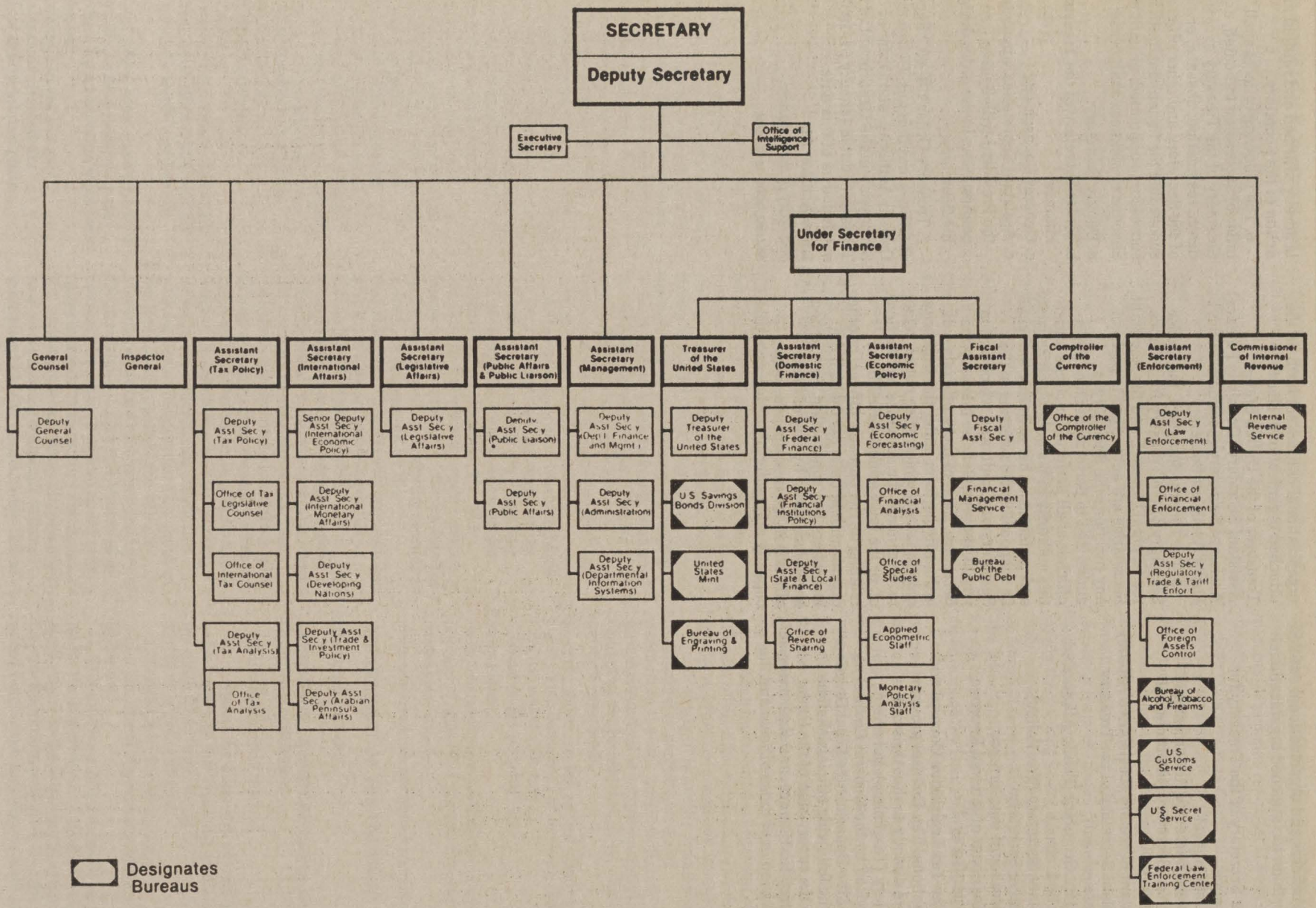
7. Treasury Order 101–05, "Supervision of Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury," dated January 31, 1987, is rescinded as of this date.

James A. Baker III,

Secretary of the Treasury.

BILLING CODE 4810-25-M

THE DEPARTMENT OF THE TREASURY



[FR Doc. 87–4305 Filed 2–27–87; 8:45 am]

BILLING CODE 4810–25–C

As of 10-31-86

Sunshine Act Meetings

Federal Register
Vol. 52, No. 40
Monday, March 2, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting Thursday, March 5, 1987 10:00 a.m.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: *Gas Heating Systems Report*

The Staff will brief the Commission on recent activities of the Gas Heating Systems project.

For a recorded message containing the lastest agenda information, Call: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

Febuary 26, 1987.

[FR Doc. 87–4369 Filed 2–26–87; 12:16 pm]

BILLING CODE 6355–01–M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Tuesday, February 24, 1987.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Closed.

Discussion of testimony on S.431/S.432 regarding Hart-Scott-Rodino provisions, and related FTC matters.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326–2179; Recorded Message: (202) 326–2711.

Emily H. Rock,

Secretary.

[FR Doc. 87–4415 Filed 2–26–87; 4:00 pm]

BILLING CODE 6750–01–M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of March 2, 1987:

A closed meeting will be held on Tuesday, March 3, 1987, at 2:30 p.m. An open meeting will be held on Thursday, March 5, 1987, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 3, 1987, at 2:30 p.m., will be:

Settlement of injunctive action.
Settlement of administrative proceeding of an enforcement nature.
Institution of injunctive actions.
Litigation matter.
Opinion.

The subject matter of the open meeting scheduled for Thursday, March 5, 1987, at 10:00 a.m., will be:

Consideration of whether to issue a release amending Securities Exchange Act Rule 3a12–8 to permit the trading of futures on designated foreign government debt securities on contract markets that are not located in the country that issued those securities, so long as the Rule's other requirements are satisfied. For further information, please contact David Underhill at (202) 272–2375.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jacqueline Higgs at (202) 272–2149.

Shirley E. Hollis,

Assistant Secretary.

February 25, 1987.

[FR Doc. 87–4383 Filed 2–26–87; 3:05 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 52, No. 40
Monday, March 2, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Correction

In notice document 87–3627 beginning on page 5325 in the issue of Friday, February 20, 1987, make the following corrections:

1. On page 5325, in the third column, in the second paragraph, in the third line, "30 days" should read "20 days"; and

2. On page 5326, in the first column, in the fourth line, "20" should read "0".

BILLING CODE 1505-01-D

FEDERAL ELECTION COMMISSION

[Notice 1987-3]

Filing Dates for California Special Elections

Correction

In notice document 87–3506 beginning on page 5189 in the issue of Thursday, February 19, 1987, make the following correction:

On page 5189, in the third column, in the **SUMMARY**, in the 16th line, the date should read "May 21, 1987".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 85N-0474]

Federation of American Societies for Experimental Biology Scientific Steering Group; Closed Meeting

Correction

In notice document 87–558 beginning on page 1250 in the issue of Monday, January 12, 1987, make the following correction:

On page 1251, in the first column, in the second paragraph under **SUPPLEMENTARY INFORMATION**, in the ninth line, "contrast" should read "contract".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Voting Members on Public Advisory Panels and Committees

Correction

In notice document 87–555 beginning on page 1249 in the issue of Monday, January 12, 1987, make the following correction:

On page 1249, in the second column, under paragraph "5", in the eighth line, "are" should read "care".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-050-07-4212-11; A-19132]

Realty Action; Lease of Conveyance of Public Lands in Mohave County, AZ

Correction

In notice document 87–1924 beginning on page 3174 in the issue of Monday, February 2, 1987, make the following correction:

On page 3174, in the third column, in the last line, "90 days" should read "60 days".

BILLING CODE 1505-01-D

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel; Renewal

Correction

In notice document 87–2905 appearing on page 4399 in the issue of Wednesday, February 11, 1987, make the following correction:

On page 4399, in the second column, in the ninth line, "Literature" should read "Music".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Issuance or Amendment; Power Reactor License or Permit Following Initial Decision

Correction

In proposed rule document 87–2268 beginning on page 3442 in the issue of Wednesday, February 4, 1987, make the following corrections:

§ 2.764 [Corrected]

1. On page 3446, in § 2.764(b)(1), in the second column, in the first line, "(c) and" should read "(c) through".

2. On page 3446, in § 2.764, in the third column, in paragraph (e)(4), in the 13th line, "Committee" should read "Commission".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-172-AD; Amdt. 39-5546]

Airworthiness Directives; Boeing Model 747 Series Airplanes

Correction

In rule document 87–2177 beginning on page 3420 in the issue of Wednesday, February 4, 1987, make the following correction:

§ 39.13 [Corrected]

On page 3421, in the first column, in the first line of the directive, "Model 727" should read "Model 747".

BILLING CODE 1505-01-D

federal register

Monday
March 2, 1987

Part II

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for September 1986

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53089; FRL-3149-2]

Premanufacture Notices Monthly Status Report for September 1986

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption requests pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for September 1986.

Nonconfidential portions of the PMNs and exemption requests may be seen in the Public Reading Room NE-G004 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53089]" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substance, Environmental Protection Agency, Rm. L-100, 401 M Street, SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs and exemption requests received during September; (b) PMNs received previously and still under review at the end of September; (c) PMNs and exemptions requests for which the notice review period has ended during September; (d) chemical substances for which EPA has received a notice of commencement to manufacture during September and (e) PMNs for which the review period has been suspended. Therefore, the September 1986 PMN Status Report is being published.

Dated: January 15, 1987

Denise Devoe,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, September 1986

I. 187 PREMANUFACTURE NOTICES AND EXEMPTION REQUESTS RECEIVED DURING THE MONTH

PMN No.	Identity/generic name	FR citation	Expiration date
P 86-1578	Generic name: Sulfurated polyether	51 FR 44945 (12-15-86)	Nov. 19, 1986.
P 86-1579	Generic name: Alkylalkoxysilane	51 FR 44945 (12-15-86)	Do.
P 86-1614	Generic name: Polyalkyleneglycol ester	51 FR 32956 (32957) (9-17-86)	Dec. 2, 1986.
P 86-1615	Generic name: Alkylmetallic oxide, reaction products with esters and mercapto esters	51 FR 32956 (32957) (9-17-86)	Do.
P 86-1616	Generic name: S-alkenyl-O, O-dialkyl dithiophosphate	51 FR 32956 (32957) (9-17-86)	Do.
P 86-1617	Generic name: Dialkyldithiophosphoric acid	51 FR 32956 (32957) (9-17-86)	Do.
P 86-1618	Generic name: Phenolic resin ester	51 FR 32956 (32957) (9-17-86)	Dec. 3, 1986.
P 86-1619	Generic name: Quarternary compounds	51 FR 32956 (32957) (9-17-86)	Dec. 2, 1986.
P 86-1620	Generic name: Dioctylcyclohexane	51 FR 32956 (32957) (9-17-86)	Do.
P 86-1621	Generic name: N-(substituted)-substituted-substituted-acetamide, -metal complex	51 FR 32956 (32957) (9-17-86)	Dec. 3. 1986.
P 86-1622	Siloxane, 2,4-toluene diisocyanate, hydroxy ethyl acrylate	51 FR 32956 (32957) (9-17-86)	Do.
P 86-1623	Generic name: Chlorinated ester	51 FR 32956 (32957) (9-17-86)	Do.
P 86-1624	Generic name: Double benzophenone	51 FR 32956 (32957) (9-17-86)	Do.
P 86-1625	Generic name: Double benzophenone	51 FR 32956 (32957) (9-17-86)	Do.
P 86-1626	Generic name: Aromatic alcohol	51 FR 32956 (32958) (9-17-86)	Do.
P 86-1627	Generic name: Aromatic alcohol	51 FR 32956 (32958) (9-17-86)	Do.
P 86-1628	Generic name: Chlorinated vegetable oil	51 FR 32956 (32958) (9-17-86)	Do.
P 86-1629	Generic name: Di-2-methyl-2-propenylphthalate	51 FR 32956 (32958) (9-17-86)	Do.
P 86-1630	Generic name: Partially silylated aliphatic isocyanate oligomer	51 FR 32956 (32958) (9-17-86)	Dec. 4, 1986.
P 86-1631	Generic name: Styrenated acrylate methacrylate polymer	51 FR 32956 (32958) (9-17-86)	Do.
P 86-1632	Generic name: Mercapto, paintable silicone wax	51 FR 32956 (32958) (9-17-86)	Do.
P 86-1633	Generic name: Silylated aliphatic polyurea lacquer	51 FR 32956 (32958) (9-17-86)	Do.
P 86-1634	Generic name: Azlactone	51 FR 32956 (32958) (9-17-86)	Do.
P 86-1635	Generic name: Polyhydric phenol, poly diazo naphthaquinone sulfonate	51 FR 32956 (32958) (9-17-86)	Do.
P 86-1636	Generic name: Unsaturated aldehyde	51 FR 32956 (32958) (9-17-86)	Do.
P 86-1637	Generic name: 1-Substituted propane, 2-methyl-2-[(1-oxo-2-propenyl)amino]-monosodium salt polymer with 2-propen-amide and 2-propenoic acid, sodium salt.	51 FR 32956 (32958) (9-17-86)	Do.
P 86-1638	Generic name: Potassium salt, 2-methyl-2-[(1-oxo-2-propenyl)amino]-monosodium salt polymer with 2-propenamide and 2-propenoic acid, potassium salt.	51 FR 32956 (32958) (9-17-86)	Do.
P 86-1639	Generic name: Octadecanoic acid, glycol ester	51 FR 33657 (9-22-86)	Do.
P 86-1640	Generic name: Amine salt of a phosphinic acid derivative	51 FR 33657 (9-22-86)	Do.
P 86-1641	Generic name: Castor oil ester	51 FR 33657 (9-22-86)	Dec. 7, 1986.
P 86-1642	Generic name: Hydroxyfunctional polyurethane	51 FR 33657 (9-22-86)	Do.
P 86-1643	Generic name: Polyolefin alkoxy silane graft	51 FR 33657 (9-22-86)	Do.
P 86-1644	Generic name: Poly (alkylene, alkylene acetate) alkoxy silane-polymer	51 FR 33657 (33658) (9-22-86)	Do.
P 86-1645	Generic name: Poly (olefin, olefin ester) alkoxy silane polymer	51 FR 33657 (33658) (9-22-86)	Do.
P 86-1646	1,3-di(4-methylphenylethenyl) benzene	51 FR 33657 (33658) (9-22-86)	Do.
P 86-1647	Generic name: Unsaturated polyester	51 FR 33657 (33658) (9-22-86)	Do.
P 86-1648	1-oxa-4-azaspiro[4,5]decane, 4-(dichloro-roacetyl)	51 FR 33657 (33658) (9-22-86)	Do.
P 86-1649	Amines, dicocoalkylmethyl, N-oxide	51 FR 33657 (33658) (9-22-86)	Dec. 8, 1986
P 86-1650	Decanamine, N-decyl-N-methyl-, N-oxide	51 FR 33657 (33658) (9-22-86)	Do.
P 86-1651	Decanamine, N-methyl-N-octyl-, N-oxide	51 FR 33657 (33658) (9-22-86)	Do.
P 86-1652	Octanamine, N-methyl-N-octyl-, N-oxide	51 FR 33657 (33658) (9-22-86)	Do.
P 86-1653	Generic name: Hydroxylated alkylether sultaine	51 FR 33657 (33658) (9-22-86)	Do.
P 86-1654	Generic name: Urea urethane acrylate	51 FR 33657 (33658) (9-22-86)	Do.
P 86-1655	Generic name: Aminofunctional polysilane adduct	51 FR 33657 (33658) (9-22-86)	Do.
P 86-1656	Generic name: Urea urethane acrylate	51 FR 33657 (33658) (9-22-86)	Do.
P 86-1657	3-Acryloxypropyltrimethoxysilane	51 FR 33657 (33658) (9-22-86)	Dec 9, 1986.
P 86-1658	p-t-butylphenethylchlorosilane	51 FR 33657 (33658) (9-22-86)	Do.
P 86-1659	Generic name: Metalated alkylphenol copolymer	51 FR 33657 (33659) (9-22-86)	Do.
P 86-1660	Generic name: Alkylated polyether	51 FR 33657 (33659) (9-22-86)	Do.
P 86-1661	Generic name: Alkyd resin	51 FR 33657 (33659) (9-22-86)	Do.
P 86-1662	Generic name: Halogenated phosphate ester	51 FR 33657 (33659) (9-22-86)	Do.
P 86-1663	Generic name: Double 1,1 diphenylethylene	51 FR 33657 (33659) (9-22-86)	Do.
P 86-1664	Generic name: Double 1,1 diphenylethylene	51 FR 33657 (33659) (9-22-86)	Do.
P 86-1665	Generic name: Unsaturated phthalic polyester	51 FR 33657 (33659) (9-22-86)	Dec. 10, 1986.

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PMN No.	Identity/generic name	FR citation	Expiration date
P 86-1666	Generic name: Acrylated phthalic polyester	51 FR 33657 (33659) (9-22-86)	Do.
P 86-1667	Generic name: Pentacosapolyunsaturated acid	51 FR 33657 (33659) (9-22-86)	Do.
P 86-1668	Generic name: Aliphatic polyether polyurethane	51 FR 33657 (33659) (9-22-86)	Do.
P 86-1669	Generic name: Aliphatic polyether polyurethane	51 FR 33657 (33659) (9-22-86)	Do.
P 86-1670	Generic name: Vegetable oil, modified, reaction products with mixture of ethoxylated alkanols	51 FR 33657 (33659) (9-22-86)	Do.
P 86-1671	Generic name: Substituted benzenesulfonyl chloride	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1672	Generic name: Substituted benzenesulfonamide	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1673	Generic name: Alkane dibasic acid diester	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1674	Generic name: Aliphatic, cycloaliphatic polyester	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1675	Generic name: Blocked polyolurethane	51 FR 34497 (34498) (9-29-86)	Dec. 14, 1986.
P 86-1676	Generic name: Aliphatic polyolurethane	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1677	Generic name: Hydroxyl containing acrylic co-polymer	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1678	4-Exo-hydroxy-1-methyl-4-isopropyl-7-oxabicyclo [4,1,0] heptane	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1679	2-Exo-hydroxy-1-methyl-4-isopropyl-7-oxabicyclo [2.2.1] heptane	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1681	Benzene, 1-(1-ethoxyethoxy)-2-methoxy-4-(1-propenyl)	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1682	Generic name: Alkyd resin prepolymer	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1683	Generic name: Reaction product of rosin acids and resin acids with a polyamine mixture	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1684	Generic name: Fatty acid modified phthalic anhydride polyester	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1685	Generic name: Styrenated acrylic	51 FR 34497 (34498) (9-29-86)	Dec. 15, 1986.
P 86-1686	Generic name: Saturated polyester	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1687	(Z,Z)-4, 7-decadienal	51 FR 34497 (34498) (9-29-86)	Do.
P 86-1688	Generic name: Silicon substituted organic lactone	51 FR 34497 (34499) (9-29-86)	Do.
P 86-1689	Generic name: Copolymer of acrylic and methacrylic esters	51 FR 34497 (34499) (9-29-86)	Do.
P 86-1690	Generic name: Phenyl substituted nitrogen heterocycle	51 FR 34497 (34499) (9-29-86)	Dec. 16, 1986.
P 86-1691	Generic name: Substituted polystyrene	51 FR 34497 (34499) (9-29-86)	Do.
P 86-1692	Generic name: Aryloxy substituted alkyl acrylate	51 FR 34497 (34499) (9-29-86)	Do.
P 86-1693	Generic name: Phenyl substituted nitrogen heterocycle	51 FR 34497 (34499) (9-29-86)	Do.
P 86-1694	Generic name: Cyanine dye derived from nitrogen heterocycles	51 FR 34497 (34499)	Dec. 16, 1986. (9-29-86)
P 86-1695	Generic name: Perfluorosulfonate salt; perfluorosulfonic acid salt; and perfluoroalkanesulfonic acid salt	51 FR 34497 (34499) (9-29-86)	Dec. 16, 1986.
P 86-1696	Generic name: Anhydride copolymermeth-acrylate half ester	51 FR 34497 (34499) (9-29-86)	Do.
P 86-1697	Generic name: Surface fluorinated, partially carbonized carbon fiber	51 FR 34497 (34499) (9-29-86)	Do.
P 86-1698	Generic name: Partially carbonated carbon fiber	51 FR 34497 (34499) (9-29-86)	Do.
P 86-1699	Generic name: Fully carbonized, carbon fiber	51 FR 34497 (34499) (9-29-86)	Do.
P 86-1700	Generic name: Brominated vinylic aromatic hydrocarbon	51 FR 34497 (34500) (9-29-86)	Do.
P 86-1701	Generic name: Hydroxylated, unsaturated natural ester	51 FR 34497 (34500) (9-29-86)	Dec. 16, 1986.
P 86-1702	Generic name: Polyalkoxylated, hydroxylated natural ester	51 FR 35426 (10-3-86)	Dec. 17, 1986.
P 86-1703	Poly alkoxylated alkyl/phenyl sodium sulfate	51 FR 35426 (10-3-86)	Do.
P 86-1704	Sodium sulfate of oxirane, methyl-polymer with oxirane, mono (octyl phenyl) ether	51 FR 35426 (10-3-86)	Do.
P 86-1705	Generic name: Alkyl phenyl polyaldoxylate	51 FR 35426 (35427) (10-3-86)	Do.
P 86-1706	Polypropylene glycoloctyl phenyl ether	51 FR 35426 (35427) (10-3-86)	Do.
P 86-1707	Generic name: Dialkyl, dihydroxyalkyl quarternary sulfate salt	51 FR 35426 (35427) (10-3-86)	Do.
P 86-1708	Generic name: Fiber reactive monoazo dyestuff	51 FR 35426 (35427) (10-3-86)	Do.
P 86-1709	Generic name: Crosslinked poly (acrylic aminium chloride)	51 FR 35426 (35427) (10-3-86)	Do.
P 86-1710	Generic name: Crosslinked poly (acrylic acid)	51 FR 35426 (35427) (10-3-86)	Do.
P 86-1711	Generic name: Crosslinked poly (amino-acrylamide)	51 FR 35426 (35427) (10-3-86)	Do.
P 86-1712	Generic name: Alkoxylated diphenol	51 FR 35426 (35427) (10-3-86)	Do.
P 86-1713	Generic name: Urethane oligomer	51 FR 35426 (35427) (10-3-86)	Do.
P 86-1714	Generic name: Carboxyacrylic resin solution	51 FR 35426 (35427) (10-3-86)	Dec. 20, 1986.
P 86-1715	Generic name: Guar phosphate ester, sodium salt	51 FR 35426 (35427) (10-3-86)	Do.
P 86-1716	Generic name: Substituted triazine azo naphthalenesulfonic acid	51 FR 35426 (35427) (10-3-86)	Do.
P 86-1717	Benzenemethanaminium, N-(3-amidopropyl)-N,N-dimethyl, 1-N-(hydrogenated C_{18}-unsaturated dimer/acyl) derivs, chlorides.	51 FR 35426 (35427) (10-3-86)	Do.
P 86-1718	2-Methoxyethyl cyanoacetate	51 FR 35426 (35427) (10-3-86)	Do.
P 86-1719	Generic name: Polycyclic organic pigment	51 FR 35426 (35427) (10-3-86)	Dec. 21, 1986.
P 86-1720	4-(1,5-Dimethylhexylidene)-1-methyl-cyclohexene 1, 4-(1-methylene-5-methyl-hexyl)-1-methylcyclohexene 1,4-(1,5-dimethyl-1-hexenyl)-1-methylcyclohexene 1.	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1721	Generic name: Phenolic acrylic	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1722	Generic name: Phenolic polyurethane resin	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1723	3-(1-Ethoxyethoxy)-3,7-dimethyl-octene	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1724	Generic name: Acid-terminated, isophthalic/terphthalic polyester resin	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1725	Generic name: Modified ethylene carbon monoxide copolymer	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1726	Generic name: Modified ethylene carbon monoxide copolymer	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1727	Generic name: Difunctional organo/lithium initiator	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1728	Generic name: Difunctional organo lithium initiator	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1729	Generic name: Polyakylene oxide, aromatic diisocyanate prepolymer	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1730	Generic name: Diarylaroylphosphine oxide	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1731	Generic name: Disubstituted quinoline	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1732	Generic name: Substituted heterocycle azo napthalenesulfonic acid, salt	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1733	Generic name: Alkyl benzene sulfonic acid, compound with amine	51 FR 35426 (35429) (10-3-86)	Do.
P 86-1734	Generic name: Aliphatic polyester urethane	51 FR 35426 (35429) (10-3-86)	Dec. 22, 1986.
P 86-1735	Generic name: Saturated polyester resin	51 FR 35426 (35429) (10-3-86)	Do.
P 86-1736	Generic name: Carboxyacrylic resin solution	51 FR 35426 (35429) (10-3-86)	Do.
P 86-1737	Generic name: A polyamino amide solution	51 FR 35426 (35429) (10-3-86)	Do.
P 86-1738	Generic name: Neutralizer acrylic acid homopolymer	51 FR 35426 (35429) (10-3-86)	Do.
P 86-1739	Generic name: Acrylylalkyl substituted benzenepolycarboxylic acid derivative	51 FR 35426 (35429) (10-3-86)	Dec. 23, 1986.
P 86-1740	Generic name: Mixed arylamides from reaction of arylaminoindenamine with an aryl acid chloride, and alkoxy substituted aryl acid chloride and a monobrominated aryl acid chloride.	51 FR 35426 (35429) (10-3-86)	Do.
P 86-1741	Generic name: Arylaminoindenamine	51 FR 35426 (35429) (10-3-86)	Do.
P 86-1742	Polymer of epoxidized soya bean oil and acrylic acid	51 FR 35426 (35428) (10-3-86)	Do.
P 86-1743	Generic name: Cresol, aryl aldehyde polymer	51 FR 36598 (10-14-86)	Dec. 24, 1986.
P 86-1744	Generic name: Cresol, aryl aldehyde polymer	51 FR 36598 (10-14-86)	Do.
P 86-1745	1,3-Phenylene-bis(3-methyl-1-(methyl phenyl) pentylidene)-bis-lithium	51 FR 36598 (10-14-86)	Do.
P 86-1746	Generic name: Polyamide—DB	51 FR 36598 (36599) (10-14-86)	Do.
P 86-1747	1,1'-methylenebis(4-isocyanatobenzene); 1,9-nonanedioic acid (azelaic)	51 FR 36598 (36599) (10-14-86)	Do.
P 86-1748	Generic name: Phenolic modified rosin ester	51 FR 36598 (36599) (10-14-86)	Do.
P 86-1749	Generic name: Phenolic modified rosin ester	51 FR 36598 (36599) (10-14-86)	Do.
P 86-1750	Generic name: Malic modified rosin ester	51 FR 36598 (36599) (10-14-86)	Do.
P 86-1751	Generic name: Phenolic modified rosin ester	51 FR 36598 (36599) (10-14-86)	Do.
P 86-1752	Generic name: Phenolic modified rosin ester	51 FR 36598 (36599) (10-14-86)	Do.
P 86-1753	Generic name: Hydrocarbon resin	51 FR 36598 (36599) (10-14-86)	Do.
P 86-1754	Generic name: Hydrocarbon resin	51 FR 36598 (36599) (10-14-86)	Do.

I. 187 Premanufacture Notices and Exemption Requests Received During the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 86-1755	Generic name: Hydrocarbon resin	51 FR 36598 (36599) (10-14-86)	Do.
P 86-1756	Generic name: Fumaric rosin ester	51 FR 36598 (36599) (10-14-86)	Do.
P 86-1757	Generic name: Poly(vinyl ester cosaturated dicarboxylic acid ester co-olefin)	51 FR 36598 (36599) (10-14-86)	Do.
P 86-1758	Generic name: Fumaric rosin ester	51 FR 36598 (36599) (10-14-86)	Do.
P 86-1759	Generic name: Epoxidized, hydroxylated natural ester	51 FR 36598 (36600) (10-14-86)	Dec. 27, 1986.
P 86-1760	Generic name: Polyalkoxylated, hydroxylated, hydroxylated natural ester	51 FR 36598 (36600) (10-14-86)	Do.
P 86-1761	Generic name: Saturated poylester resin	51 FR 36598 (36600) (10-14-86)	Do.
P 86-1762	Generic name: Polyvinyl acetate copolymer	51 FR 36598 (36600) (10-14-86)	Do.
P 86-1763	Generic name: Modified phenol formaldehyde resin	51 FR 36598 (36600) (10-14-86)	Do.
P 86-1764	Generic name: Modified phenol formaldehyde resin	51 FR 36598 (36600) (10-14-86)	Do.
P 86-1765	Generic name: Acrylic modified alkyd resin	51 FR 36598 (36600) (10-14-86)	Do.
P 86-1766	Generic name: Alkyd resin	51 FR 36598 (36600) (10-14-86)	Do.
P 86-1767	Generic name: Alkyd resin	51 FR 36598 (36600) (10-14-86)	Do.
P 86-1768	Generic name: Alkyd resin	51 FR 36598 (36600) (10-14-86)	Do.
P 86-1769	Generic name: Modified alkyd resin	51 FR 36598 (36600) (10-14-86)	Do.
P 86-1770	Generic name: Alkyd resin	51 FR 36598 (36600) (10-14-86)	Do.
P 86-1771	Generic name: Benzotriazolederivative	51 FR 36598 (36600) (10-14-86)	Dec. 28, 1986.
P 86-1772	Polymer of 2-ethanol,1,1'-thiobis; ethanol, 2-mercapto, reaction product with propylene oxide; 3-thiahept-5-ene-1-ol; 1,3-propanediol, 2-ethyl-2-(hydroxymethyl) and ethanethiol, 2,2'(1,2-ethanediyl bis [oxy]) bis.	51 FR 36598 (36600) (10-14-86)	Do.
P 86-1773	Polymer of 2-ethanol,1,1'-thiobis; ethanol, 2-mercapto, reaction product with propylene oxide, 3-thiahept-5-ene-1-ol; 1,3-propanediol, 2-ethyl-2-(hydroxymethyl) and ethanethiol, 2,2'-thiobis.	51 FR 36598 (36600) (10-14-86)	Do.
P 86-1774	Polymer of ethanol, 2-mercapto oxirane extended, hydroxy terminated and methylene bis-(4-cyclohexyl ioscyanate)	51 FR 36598 (36601) (10-14-86)	Do.
P 86-1775	1,5,14,18-Tetrahydroxy-7, 12-dioxa-3, 16-dithiaoctadecane	51 FR 36598 (36601) (10-14-86)	Do.
P 86-1776	Polymer of phthalic anhydride; 2,2,4-trimethyl-1,3-pentanediol; 2,2-oxybis (ethanol); 2-ethyl hexanol; trimethylopropane; and fascat 4100.	51 FR 36598 (36601) (10-14-86)	Do.
Y 86-236	Generic name: Saturated polyester	51 FR 32682 (9-15-86)	Sept. 24, 1986.
Y 86-237	Generic name: Polyesteramide of aliphatic diacid, diamine, and alicyclic diol	51 FR 32682 (32683) (9-15-86)	Do.
Y 86-238	Generic name: Modified tall oil alkyd	51 FR 32682 (32683) 9-15-86)	Do.
Y 86-239	Sebacic and adipic acid and phthalic anhydride polymers with ethylene glycol and 2-ethylhexanol	51 FR 33298 (9-19-86)	Sept. 25, 1986.
Y 86-240	Sebacic, adipic acid, phthalic anhydride, C_{6-18} moncarboxylic and C_{6-18} dicarboxylic acid polymers with propylene glycol.	51 FR 33298 (9-19-86)	Do.
Y 86-241	Sebacic and adipic acid and phthalic anhydride polymers with ethylene glycol and iso-octanol	51 FR 33298 (9-19-86)	Do.
Y 86-242	Generic name: Polyester	51 FR 33298 (9-19-86)	Do.
Y 86-243	Generic name: Polyurethane	51 FR 33298 (9-19-86)	Sept 28, 1986.
Y 86-244	Generic name: Polyurethane	51 FR 33298 (9-19-86)	Do.
Y 86-245	Generic name: Polyester of carbomonecyclic acid, alkylene glycol, and cycloalkylene glycol	51 FR 34500 (9-29-86)	Oct. 2, 1986.
Y 86-246	Generic name: Acrylamide copolymer, sodium salt	51 FR 34500 (9-29-86)	Oct. 5, 1986.
Y 86-247	Generic name: Acrylamide copolymer, potassium salt	51 FR 34500 (9-29-86)	Do.
Y 86-248	Generic name: Acrylamide copolymer, mixed potassium sodium salt	51 FR 34500 (9-29-86)	Do.
Y 86-249	Acrylamide copolymer	51 FR 34500 (9-29-86)	Do.
Y 86-250	Generic name: Aliphatic aromatic polyester	51 FR 34500 (9-29-86)	Oct. 6, 1986.
Y 86-251	Generic name: Solvent-thinned alkyd resin	51 FR 34500 (9-29-86)	Oct. 8, 1986.
Y 86-252	Generic name: Acrylic resin	51 FR 35425 (10-3-86)	Oct. 12, 1986.
Y 86-253	Generic name: Acrylic resin	51 FR 35425 (35426) (10-3-86)	Do.
Y 86-254	Generic name: Acrylic resin	51 FR 35425 (35426) (10-3-86)	Do.
Y 86-255	Generic name: Acrylic resin	51 FR 35425 (35426) (10-3-86)	Do.
Y 86-256	Esterified copolymers of alpha olefins and maleic anydride	51 FR 35425 (35426) (10-3-86)	Oct. 13, 1986.
Y 86-257	Generic name: Modified methyl methacrylate polymer	51 FR 35425 (35426) (10-3-86)	Do.
Y 86-258	Generic name: Polyurethane	51 FR 35425 (35426) (10-3-86)	Oct. 14, 1986.
Y 86-259	Generic name: Styrene, acrylic modified alkyd	51 FR 36598 (10-14-86)	Oct. 20, 1986.

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P 86-1461
P 86-1462
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P 86-1613

III. 189 Premanufacture Notices and Exemption Requests for Which the Notice Review Period has Ended During the Month. (Expiration of the notice review period does not signify that the chemical had been added to the Inventory)

PMN No.

P 83-770
P 83-913
P 85-194
P 85-203

P 85–317
P 85–882
P 85–941
P 85–1189
P 85–1335
P 85–1337
P 85–1433
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Y 86–243
Y 86–244

IV. 65 Chemical Substances for Which EPA has Received Notices of Commencement to Manufacture

PMN No.	Identity/generic name	Date od commencement
P 80–202	Generic name: 1-substituted-1 (4-(Substituted hetero-mono cyclic)phenyl)ethane	Aug. 25, 1986.
P 80–375	Generic name: Polymer of methacrylic acid, alkyl acrylate, alkyl methacrylate and an acrylic acid derivative	Feb. 19 1986.
P 82–323	Generic name: Tert-alkyl peroxy ester	Sept. 10, 1986.
P 83–542	Generic name: Alkyl, alkylene maleate	Sept. 19, 1983.
P 83–859	Generic name: S # # Salt of aminomethylene phosphonic acid	July 11, 1986.
P 84–378	Generic name: Aromatic sulfonate of substituted heteropolycycle	Aug. 15, 1986.
P 84–850	Generic name: Fatty acrylate polymers	Aug. 29, 1986.
P 84–1046	2-Naphthylamine-3,6,8-trisulfonic acid, disodium salt	Dec. 6, 1984.
P 85–253	Generic name: Polyester resin	Aug. 27, 1986.
P 85–275	Generic name: Color index reactive orange 84	Sept. 7, 1986.
P 85–465	Generic name: Mercaptan terminated polyether polymer	Sept. 4, 1986.
P 85–501	Generic name: Substituted benzopyran	Sept. 9, 1986.
P 85–502	.....do	Do.
P 85–507	Generic name: Substituted quinoline	Do.
P 85–508	Generic name: Substituted benzopyran	Sept. 2, 1986.
P 85–827	Generic name: Phenoxazinium, bis(substitutedamino), salt	Aug. 14, 1986.
P 85–1079	Generic name: Substituted naphthalene, (1,2-ethenediylbis) (sulfo-4,1-phenylene) imino (chloro-1,3,5-triazinediyl)imino (hydroxy-substituted-naphthalenediyl) azo))bis-, alkali metal salt.	Sept. 7, 1986.
P 85–1144	Generic name: Bis(amino triazine) polysulfide	Sept. 5, 1986.
P 85–1202	2-Naphthalenecarboxaldehyde, 5,6,7,8-tetrahydro-methoxy-3,5,5,8,8-pentamethyl-	July. 15, 1986.
P 85–1203	1-Cyclopentene-1-propanol, beta,beta,2-trimethyl-5-(1-methylethenyl)-, propanoate	Do.
P 85–1225	Generic name: Modified castor oil polymer	Aug. 19, 1986.
P 85–1228	2-Naphthylazo-(2'uriedo, 4'-(3"-chloro-5"-(p-ethyl sulfonyl sulfuric ester potassium salt-phenylamino)-s-triazinylamino phenyl))-3,6,8-trisulfonic acid potassium salt	Sept. 17, 1986.
P 85–1229	2-(3',5'-dichloro-s-triazinylamino)-4-amino-5-(p-ethyl sulfonyl sulfuric ester-potassium salt-benzeneazo)-benzene sulfonic acid-potassium salt	Sept. 7, 1986.
P 85–1231	1-(p-sulfo phenyl potassium salt)-3-carboxy acid potassium salt-4-(3'-(3"-chloro-5"-(p-ethyl sulfonyl sulfuric ester potassium salt-phenylamino)-s-trizinyl amino)-6'-sulfonic acid potassium salt phenylazo-)-5-pyrazolone	Do.
P 85–1232	1-hydroxy-2-(4'-ethyl sulfonyl sulfuric acid ester potassium salt phenylazo)-8-(3"-(4"-ethylsulfonyl sufluric acid ester potassium salt phenylamino)-5"-chloro-s-triazinylamino)naphthalene 3,6-disulfonic acid dipotassium salt	Sept. 7, 1986.
P 85–1233	1-hydroxy-2-(2'-sulfonic acid potassium salt phenylazo)-8-(5"-chloro-3"-(4"-ethyl sulfonyl sulfuric acid ester potassium salt phenylamino)-s-triazinylamino)napthalene-3,6-disulfonic acid dipotasium salt	Do.
P 85–1234	1-(3'-chloro-5'-(p-ethyl sulfonyl sulfuric ester sodium salt-phenylamino)-s-triazinzylamino)-7-(2"-naphthylazo-1"-sulfonic acid sodium salt)-8-naphthol-3,6-disulfonic acid sodium salt	Do.
P 85–1235	1-hydroxy-2-(1',5'-disulfonic acid dipotassium salt-2'-naphthylazo)-8-(3"-(4"-ethyl sulfonyl sulfuric acid ester potassium salt phenylamino)-5"-chloro-s-triazinylamino)naphthalene-3,6-disulfonic acid dipotassium salt	Aug. 11, 1986.
P 85–1271	1-hydroxy-2-(4'-ethyl sulfonyl sulfuric acid ester sodium salt phenylazo)-8-(5"-chloro-3"-(4-ethyl sulfonyl sulfuric acid ester sodium salt phenyl amino)-s-triazinyl) amino naphthalene-3,6-disulfonic acid disodium salt	Sept. 7, 1986.
P 86–9	Copper complex of 1-hydroxy 2-(4'-ethyl sulfonyl sulfuric acid ester potassium salt phenylazo) naphthalene-4-sulfonic acid potassium salt	Do.
P 86–10	((4'-ethyl sulfonyl sulphuric acid ester sodium salt phenyl sulfonamide) 1,4(sulfonic acid sodium salt) 1,6-sulfonamide) of copper phthalocyanine	Do.
P 86–55	Generic name: Perfluoroalkyl polyether	Aug. 19, 1986.
P 86–193	Generic name: Polyester polyurethane ionomer	Sept. 11, 1986.
P 86–241	Generic name: Dioxime-diisocyanate polymer	Aug. 27, 1986.
P 86–475	Generic name: Polyamide	Aug. 4, 1986.
P 86–499	Generic name: Salt of substituted phenyl-hydrazinoalkanoic acid derivative	Do.
P 86–579	Generic name: Diphenol dicyanate	Aug. 13, 1986.
P 86–605	Generic name: Aryl phenol ethoxylated, phosphated	Aug. 15, 1986.
P 86–641	Generic name: Coplymers of fluoroolefin and vinyl ethers	July 15, 1986.
P 86–688	Generic name: A maleic modified rosin ester, amino alcohol salt	Aug. 15, 1986.
P 86–703	Generic name: Epoxy acrylic polymer	Aug. 6, 1986.
P 86–734	Amino hydroxy ester	Aug. 8, 1986.
P 86–815	Generic name: Salt of heterocyclicalkenyl, substituted (phenylpyrazole)	July 24, 1986.
P 86–836	Generic name: Poly(substracted carbonocycle alkylene) phosphate	Aug. 15, 1986.
P 86–848	Generic name: Poly (disubstituted amino) aryl alkane	Aug. 11, 1986.

IV. 65 Chemical Substances for Which EPA has Received Notices of Commencement to Manufacture—Continued

PMN No.	Identity/generic name	Date od commencement
P 86-866	Generic name: Salt of a substituted (phenylpyrazole)	July 17, 1986.
P 86-895	Generic name: Reaction product of polysubstituted alkanes	Aug. 12, 1986.
P 86-910	Generic name: Substituted alkyl arylamine	Aug. 18, 1986.
P 86-917	Generic name: Alkyl diquaternary	July 30, 1986.
P 86-957	Acrylic acid, methacrylic acid, acrylonitrile, methacrylamide ammonium persulfate and sodium hydroxide	Sept. 10, 1986.
P 86-981	Generic name: Alkylphosphatoalkyl titanate	Aug. 25, 1986.
P 86-990	Generic name: Starch, dihydrogen phosphate, disubstituted alkyl ether	Aug. 15, 1986.
P 86-1017	Generic name: Isocyanate polymer with polyalkyloxy compound, substituted propanic acid, and a diamine	Aug. 20, 1986.
P 86-1052	Generic name: Siloxane, dimethyl, dihydroxyalkyl, terminated product with oxepanone	Aug. 24, 1986.
P 86-1053	Generic name: Siloxane dimethyl dihydroxyalkyl, terminated reaction product with oxepanone	Do.
P 86-1061	Generic name: Alkoxylated terephthalate glycol ester polymer	Aug. 18, 1986.
P 86-1073	Generic name: Substituted aromatic polymer	Sept. 9, 1986.
P 86-1074	Generic name: Aqueous polyurethane dispersion	Do.
P 86-1107	Generic name: Substituted naphthalene	Sept. 8, 1986.
P 86-1136	Generic name: Alkyl acid phosphate salt	Sept. 9, 1986.
Y 85-153	Generic name: Oil free alkyd resin	May 23, 1986.
Y 86-64	Polymer of neopentyl glycol; 1,6-hexanediol; adipic acid; isophthalic acid; terephthalic acid; trimellitic anhydride; and butyl stannoic acid	Aug. 22, 1986.
Y 86-135	Generic name: Polyester resin	Sept. 3, 1986.
Y 86-186	Generic name: Acrylic resin	Sept. 12, 1986.
Y 86-210	Generic name: Unsaturated polyester polymer	Aug. 20, 1986.

V. 15 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity/generic name	FR citation	Date suspended
P 86-331	Generic name: Propoxylated quaternary amine	51 FR 442 (443) (1-6-86)	Sept. 15, 1986.
P 86-562	Generic name: Perfluoroalkyl epoxide	51 FR 8009 (8010) (3-7-86)	Sept. 18, 1986.
P 86-872	....do	51 FR 15681 (15684) (4-25-86)	Do.
P 86-873	....do	51 FR 15681 (15684) (4-25-86)	Do.
P 86-940	Generic name: Aromatic methyl oxirane	51 FR 16587 (16588) (5-5-86)	Sept. 19, 1986.
P 86-1014	Generic name: Substituted phosphine oxide	51 FR 18958 (5-23-86)	Sept. 5, 1986.
P 86-1015	....do	51 FR 18958 (5-23-86)	Do.
P 86-1141	Generic name: Alkyl anhydride adduct	51 FR 23461 (23462) (6-27-86)	Sept. 7, 1986.
P 86-1142	Substituted 2-chloro-4-toluidine sulfate	51 FR 23461 (23462) (6-27-86)	Sept. 5, 1986.
P 86-1165	Generic name: Silane modified aliphatic alicyclic urethane	51 FR 23464 (6-27-86)	Sept. 15, 1986.
P 86-1176	Generic name: Trialkoxysilyl ester	51 FR 23464 (23465) (6-27-86)	Sept. 14, 1986.
P 86-1189	Generic name: Bis(oxazoline)	51 FR 23464 (23466) (6-27-86)	Sept. 16, 1986.
P 86-1215	Generic name: Alkyl naphthalene sulfonic acid, compound with amine	51 FR 21251 (21253) (7-11-86)	Sept. 21, 1986.
P 86-1235	Generic name: Polymeric aliphatic polyol	51 FR 26055 (26056) (7-18-86)	Sept. 23, 1986.
P 86-1252	Generic name: Boron ester	51 FR 26055 (26057) (7-18-86)	Sept. 19, 1986.

[FR Doc. 87-1968 Filed 2-27-87; 8:45 am]

BILLING CODE 6560-50-M

Federal Register

Monday
March 2, 1987

Part III

Department of Justice

Bureau of Prisons

28 CFR Part 513

Control, Custody, Care, Treatment, and Instruction of Inmates; Release of Information to Law Enforcement Agencies; Proposed Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 513

Control, Custody, Care, Treatment, and Instruction of Inmates; Release of Information to Law Enforcement Agencies

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is publishing a proposed rule implementing the provisions of 18 U.S.C. 4082(f). This section authorizes the Bureau of Prisons to release to a law enforcement agency information concerning federal inmates transferred to a residential community treatment center located within the jurisdiction of that agency. This information is intended to be used by the law enforcement agency only within the scope of their investigative work.

DATE: Comments on the proposed rule must be received on or before April 17, 1987.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 770, 320 1st Street NW., Washington, DC 20534. Comments received will be available for examination by interested persons at the above address.

FOR FURTHER INFORMATION CONTACT: Hank Jacob, Office of General Counsel, Bureau of Prisons, phone 202/272–6874.

SUPPLEMENTARY INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(q), notice is hereby given that the Bureau of Prisons is publishing a proposed rule on the release of information to law enforcement agencies. This release is authorized under the provisions of Pub. L. 99–646, Criminal Law and Procedure Technical Amendments Act of 1986.

Section 4082(f) of this Act authorizes the Bureau of Prisons to make available to the head of any law enforcement agency of a state or of a unit of local government information with respect to Federal prisoners who have been convicted of felony offenses against the United States and who are confined at a residential community treatment center located in the geographical area in which the requesting agency has jurisdiction. This section also discusses the type of information that may be released (e.g., names, dates of birth, nature of the offense).

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 770, 320 1st Street NW., Washington, DC 20534. Comments received will be considered before final action is taken. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 513

Prisoners.

In consideration of the foregoing, it is proposed to amend Subchapter A of 28 CFR, Chapter V as follows: In Subchapter A, revise Part 513 by adding a new Subpart C to read as follows:

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 513—ACCESS TO RECORDS

1. The authority citation for Part 513 is revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In Part 513, add a new Subpart C to read as follows:

Subpart C—Release of Information to Law Enforcement Agencies

Sec.

Subpart C—Release of Information to Law Enforcement Agencies

§ 513.20 Release of information to law enforcement agencies.

(a) The Bureau of Prisons will provide to the head of any law enforcement agency of a state or of a unit of local government in a state information on Federal prisoners who have been convicted of felony offenses and who are confined at a residential community treatment center located in the geographical area in which the requesting agency has jurisdiction. Law enforcement personnel interested in obtaining this information must forward a written request to the appropriate Regional Community Programs Administrator (see 28 CFR Part 503 for the mailing address). The type of information that the Bureau of Prisons may provide is set forth in 18 U.S.C. 4082(f).

(b) Any law enforcement agency which receives information under this rule may not disseminate such information outside of such agency.

Dated: February 24, 1987.

J. Michael Quinlan,

Acting Director, Federal Bureau of Prisons.

[FR Doc. 87–4299 Filed 2–27–87; 8:45 am]

BILLING CODE 4410–05–M

Federal Register

Monday
March 2, 1987

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 278

Mandatory Meals Program in Multifamily Rental or Cooperative Projects for the Elderly or Handicapped; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 278

[Docket No. R-87-1272; FR-2179]

Mandatory Meals Program in Multifamily Rental or Cooperative Projects for the Elderly or Handicapped

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule codifies HUD program regulations governing the management of mandatory meals programs in HUD-assisted multifamily housing for the elderly or handicapped. It prohibits all mandatory meals programs in HUD-assisted projects for which a HUD commitment to insure was issued or for which funds were reserved after April 1, 1987, but authorizes mandatory meals programs approved by HUD before April 1, 1987. This final rule revises the proposed rule published in the **Federal Register** of September 15, 1986 (51 FR 32764).

EFFECTIVE DATE: April 1, 1987.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Office of Multifamily Housing, telephone (202) 426-3970, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Introduction

Background

From 1959 to 1963 the Housing and Home Finance Agency (HHFA), HUD's predecessor agency, permitted owners of HHFA-assisted projects for the elderly or handicapped, where projects were equipped with central dining facilities, to require their tenants to purchase meals. HHFA placed no limit on the number of meals per day that owners could require tenants to purchase. Beginning in 1963, HHFA (and subsequently HUD) has permitted, with prior HUD approval, owners of HUD-assisted projects for the elderly or handicapped to require their tenants to purchase one meal per day in the dining facilities unless special conditions existed, in which case HUD has on occasion approved required purchases of up to three meals per day. This "mandatory meals policy" has appeared over the years in various HUD Circulars and Handbooks covering HUD-assisted projects for the elderly.

HUD published a proposed rule on the Department's mandatory meals program in the **Federal Register** of September 15, 1986 (51 FR 32764). The publication of the proposed rule followed the publication of an interim policy statement on HUD's mandatory meals program in the **Federal Register** of February 10, 1986 (51 FR 4997). (This statement was revised in the **Federal Register** of April 3, 1986 (51 FR 11483), which clarified the scope of the applicability of the interim policy.) In that policy statement, the Department stated its intention to reevaluate its mandatory meals policy and to publish a final rule, after providing notice and an opportunity for public comment. This decision followed a court order resolving litigation that involved HUD's policy on mandatory meals programs (specifically for projects for the elderly assisted under section 236 of the National Housing Act). *Birkland* v. *Rotary Plaza, Inc.*, No. C 84-2026 SW. (N.D. Cal. Jan. 10, 1986) (order granting declaratory and injunctive relief).

Both the U.S. Ninth Circuit Court of Appeals in *Aujero* v. *CDA Todco, Inc.*, 756 F.2d 1374, 1377 (9th Cir. 1985), and the Tenth Circuit in *Mayoral* v. *Jeffco American Baptist Residences, Inc.*, 726 F.2d 1361 (10th Cir.) *cert. denied.* 105 S.Ct. 255 (1984), have recognized that mandatory meals programs benefit elderly participants by ensuring adequate nutrition in a social environment, thereby avoiding malnutrition and social isolation. A March 1985 report of the General Accounting Office (GAO) confirmed these findings, and provides support for various policy determinations in this rule.

GAO Report on Mandatory Meals Programs in HUD-Assisted Projects for the Elderly

The preamble to the September 1986 proposed rule summarized the results of the GAO report (see 51 FR 32764–32765). The GAO report included several findings that support HUD's decision to authorize the continuation of existing HUD-approved mandatory meals programs:

1. Voluntary meals programs surveyed were found to be subsidized by public agencies or private organizations, with residents paying only a portion of the costs (and in some projects, not required to pay for the meals). (This characteristic of voluntary meals programs is particularly important, because project income from rentals may not be used to make up for any shortfall in revenues to support a meals program.) In contrast, the mandatory meals programs that were surveyed by GAO generally were not subsidized. On the average, tenant charges covered 96 percent of the cost of the meals under mandatory programs. Under the voluntary meals programs that were surveyed, tenant charges averaged only 71 percent of the cost of the program.

2. Managers of projects with mandatory meals programs believed that their projects' elderly residents would be adversely affected if the projects' programs were terminated. Those managers cited nutrition-related and social benefits for tenants who participate in a mandatory meals program. (Increased fire risk resulting from the cooking of meals by elderly tenants in their own units was cited as another negative consequence of the lack of a meals program.)

3. Managers of projects with mandatory meals programs reported that if they were required to make participation in their projects' programs voluntary, attendance would be too unpredictable to ensure a sufficiently steady stream of income to continue the program on a financially sound basis, and predicted that their project ultimately would be forced to terminate any food service program.

4. Tenants participating in mandatory meals programs that were surveyed generally reported that their participation improved their day-to-day lives.

In promulgating this final rule, HUD balanced the aforementioned considerations with the following factors:

1. Managers of projects without any meals program responded that the absence of a meals program at their project had little or no adverse effect on their elderly residents. (However, the principal reasons given by some of these managers was not that their projects' tenants did not need meal services, but that (a) their residents were capable of preparing meals in their rooms and therefore did not need a meals program, or (b) their residents were able to participate in a meals program in a nearby facility.)

2. A small minority of tenants surveyed regarded the mandatory meals programs as detrimental to the quality of their day-to-day lives, and reported dissatisfaction with the taste and variety of the meals.

Final Rule

After considering the findings in the GAO report and the public comments submitted in response to the proposed

rule (see part II of this preamble), HUD has decided to continue its authorization of current HUD-approved mandatory meals programs, but not to approve any new programs in existing or future projects.

HUD's decision to prohibit future mandatory meals programs in HUD-assisted projects covered under this rule but to authorize current HUD-approved programs, reflects a balancing of competing considerations. Manadatory meals programs promote nutrition and socialization, and generally are supported by participants. Mandatory meals programs cannot be converted to voluntary participation without risking the discontinuation of the program because: (1) Voluntary meals programs require a level of subsidization to be financially feasible, and (2) a private or public source for the subsidey may not be available after conversion. In addition, project sponsors may have relied on the continuation of HUD's mandatory meals policy in initially proposing to build their project for the elderly or handicapped, and tenants in the project may have relied on the continuation of HUD's policy in accepting a dwelling unit in that project. In approving assistance for the construction of the project (with a central dining facility), HUD may have relied on the continued operation of a mandatory meals program at the project. However, mandatory meals programs have generated opposition on the ground that they: (1) infringe on the freedom of tenants to prepare their own meals and on their privacy to dine with whom they choose, and (2) impose a financial hardship on certain tenants.

This final rule authorizes the continuation of current mandatory meals programs because they provide nutritional and socialization benefits and because if such programs were required to convert to voluntary participation, project sponsors may not be able to obtain necessary sources of subsidies to fund their programs, and thus might terminate them as financially infeasbile. This result would frustrate the reasonable expectations of:

(1) Sponsors who relied on HUD's mandatory meals policy in proposing projects that offered a mandatory meals program, included a central dining facility in their projects' design with specific HUD approval, and established a mandatory program because they had determined that without the mandatory nature of the meals program, attendance would be too unpredictable to ensure a sufficiently steady stream of income to continue the program on a financially sound basis—resulting in the possible economic necessity of terminating the meals programs in that project;

(2) HUD, which approved and funded the inclusion of central dining facility in the project's construction, with the expectation that the project and its facilities would be used as the sponsor had intended; and

(3) Tenants who accepted units in a HUD-assisted project with a mandatory program because of the availability of a meals service at that project.

Because of the aforementioned concerns, HUD is authorizing only current HUD-approved mandatory programs. HUD has determined that where sponsors of existing projects have decided to operate a voluntary meals program or have not established any meals service, there has not been sufficient reliance on HUD's mandatory meals policy to justify a later conversion to a mandatory program. In addition, sponsors of existing projects with no meals program could not justify a later conversion request based on assertions that, in developing the project's design, they intended the serving of meals in the project's central dining facility to be an important component of the services they would offer to their tenants, and therefore included a central dining facility as part of the project's design.

HUD also has determined that no reliance considerations exist for future HUD-assisted projects. Project sponsors for future HUD-assisted projects who decide to offer their tenants a meals service may either site their projects near a community facility with a suitable meals program or make an informed decision to include a central dining facility in their project and offer only a voluntary meals program.

Other revisions to the September 1986 proposed rule include:

(1) Clarifying in § 278.1(c) that HUD interprets section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) to exclude such items as mandatory meals charges from "rent" under the Act (see also § 278.20(c));

(2) Requiring in § 278.1(b) that where no State or local statute or regulation covers a mandatory meals program governed by this rule, the project owner must submit to HUD an annual certification from a registered dietician that the project's mandatory meals program has been designed to ensure that each mandatory meal provides a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council (as required for certain assistance programs of the U.S. Department of Health and Human Services under section 3030e of the Older Americans Act of 1965, 42 U.S.C. 3001—3058d);

(3) Deleting the provision in proposed § 278.10(a), that for related households of two or more persons residing in a single unit in the project, only one meal per day per household may be required;

(4) Revising § 278.10(b) to require project owners to notify in writing current and prospective tenants of the exemptions in § 278.12;

(5) Clarifying § 278.20(a)(2) to state that commercially provided mandatory meals be served in the central dining facility of the project; and that any mandatory meals service provided by a commercial firm be comparable to the cost of mandatory meals served in other HUD-assisted projects in the local area, or if there are no such projects with mandatory meals, to meal charges in comparable projects in the local area; and

(6) Modifying § 278.20(h) to state that no additional charge may be allowed for the first one-month period of serving meals in an incapacitated tenant's dwelling unit, but that if an incapacitated tenant requests in writing that the service continue beyond one month, the owner may impose a charge of up to one dollar per meal to offset administrative costs.

II. Public Comments on the Proposed Rule

HUD received a significant number of public comments on the September 1986 proposed rule, including comments from five legal services and tenant organizations, forty-four national and State industry associations and administrators of specific HUD-assisted projects for the elderly, ten State and local agencies involved with programs for the elderly, and three hundred and seventy-four tenant participants in current mandatory meals programs. Of the 374 tenant comments, there was a near-even split of opinion (182 tenants who advocated continuation of their projects' mandatory meals programs and 192 who criticized their projects' programs). Despite the large number of comments from tenant participants, relatively few projects were represented in the responses. Of the 192 comments critical of existing mandatory programs, 156 were from tenants in the Clyde F. Simon Lakeview Apartments in Bath, New York. Of the 182 comments supportive of existing mandatory programs, 149 were from tenants in the St. John Berchman Manor in New Orleans, Louisiana.

The content of the public comments is summarized by subject matter, keyed to the several sections of this rule.

Section 278.1 Purpose.

Legal services and tenant organizations urged that the final rule contain prohibitions on current and future mandatory meals programs in HUD-assisted projects. Generally, these organizations stated that:

(1) The existence of mandatory meals charges constitutes a financial hardship on affected tenants, many of whom are forced to subsist on extremely limited incomes of Social Security or Supplemental Security Income benefits;

(2) The imposition of mandatory meals charges is a threat to affected tenants' independence and a violation of their constitutional right to privacy and assembly;

(3) For certain tenants, the meals provided in mandatory meals programs have failed to comport with their dietary and medical needs;

(4) Scheduled meals have conflicted with social, recreational, and employment activities of tenants; and

(5) The food often is of poor quality and unappealing.

Industry organizations generally supported covering the universe of existing and future HUD-assisted projects for the elderly, but with certain modifications. (These proposed modifications will be described in connection with the discussion of particular sections of the proposed rule.)

The majority of State and local agency commenters preferred the option that would permit only mandatory meals programs already approved by HUD.

HUD has determined that for the reasons stated in Part I of this preamble, only current HUD-approved mandatory meals programs may be authorized.

HUD also has determined that this rule provides protections that meet many of the concerns stated by legal services and tenant organizations in their comments:

(1) Project owners must grant exemptions to tenants who qualify under § 278.12(a) and must provide particular services under § 278.14 to tenants whose physical incapacity requires special treatment; and

(2) The rule prohibits the conversion of a voluntary meals program to a mandatory program or the establishment of a new meals program in an existing project.

With respect to specific provisions of § 278.1, a consultant for certain participant in mandatory meals programs recommended that this section require that mandatory meals programs meet minimum nutrition standards for Federal food assistance programs of the U.S. Department of Agriculture and the U.S. Department of Health and Human Services. (Legal services organizations also proposed that HUD-approved mandatory meals programs meet certain basic nutritional needs.) In response to this comment, HUD has included a provision that where no State or local statute or regulation providing for nutritional standards covers a HUD-approved mandatory meals program, the project owner must submit annually a certification from a registered dietician that the project's mandatory program has been designed to ensure that each mandatory meal provide a minimum of one-third of the daily recommended allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council (§ 278.1(b)).

The Texas Department of Social Services recommended that, before approving future projects with mandatory meals programs, HUD should require that the central dining facilities contain a minimum seating capacity sufficient to seat at least two-thirds of the participants at one time. Since the Department has decided to prohibit mandatory meals programs in future HUD assisted projects for the elderly or handicapped, it is unnecessary to provide design requirements for the construction of central dining facilities to accommodate such programs.

Section 278.10 Administration of mandatory meals programs.

Certain legal services and tenant organizations recommended that in the event this rule permits HUD to approve mandatory meals charges as a condition of occupancy in HUD-subsidized housing, HUD's approval should be in writing. Where HUD regulations permit the Department to approve the establishment of new mandatory meals programs, these commenters recommend that specific procedures and standards be required to control HUD's determination whether to approve an owner's application for the establishment of a new mandatory meals program. Given HUDs decision not to authorize any new mandatory meals programs, the procedural requirements for new programs that were proposed by these commenters are not necessary.

Concerning proposed § 278.10(a), the American Association of Homes for the Aging (AAHA) recommended that the one required meal per household be deleted in the final rule as a condition for smaller projects (50 units or smaller). According to AAHA, in recent years, newly constructed Section 202 projects (particularly in rural areas) have declined in size so that the total number of units seldom exceeds 30–40. According to this comment, such smaller-scale projects typically are located in areas where there are few nearby alternative facilities at which project residents may obtain nutritious meals. Projects of this size are unlikely to be able to offer any type of nutritional services at modest cost without participation by all residents.

The Institute for Real Estate Management of the National Association of Realtors (IREM) supported AAHA's general concern that the one mandatory meal per household per day provision serves no functional purpose. IREM supported the concept that all members of a household in a given unit should be obligated to join a project's mandatory meals program, unless an exception has been approved for an individual member of that household.

The New Jersey Department of Community Services, the Texas Department of Human Services, and the California Department of Aging concurred with AAHA and IREM in asserting that the one mandatory meal per-day per-household provision should be modified to eliminate the "household" reference.

HUD agrees with these commenters and therefore has eliminated the one mandatory meal per household provision. After considering these comments, HUD concurs that the use of units (rather than the total number of residents) in a project as the measure of compliance with this rule would not be appropriate. If a project is to operate its mandatory meals program without operating deficits, a decrease in the number of residents a project may require to participate in its meals program would result in increased meal charges to those tenants participating, and would diminish the benefits of promoting nutrition and socialization.

Concerning proposed § 278.10(b), a legal services organization recommended that HUD's regulations require owners to give current and prospective tenants notice, before the lease is executed, of HUD's policies and regulations pertaining to exemptions from participation in meals programs. In addition, this organization advocated that the notification requirement of proposed § 278.10(b) be applied to any project with a mandatory meals program—including mandatory meals programs requiring the purchase of more than one meal per day. HUD agrees with this commenter that some form of notification should be provided by

project owners to tenants concerning the exemptions included in § 278.12. Proposed § 278.10(b) has been revised to require project owners to notify current and prospective tenants of these exemptions.

Section 278.12 Exemptions.

Legal services and tenant organizations criticized the exemption provisions set out in HUD's proposed rule in § 278.12 as insufficient to protect affected tenants' interest. For example, one legal services organization stated that the proposed set of exemptions was inadequate, and that affected tenants should be excused from participation in a HUD-approved mandatory meals program where a tenant can demonstrate that:

(1) Participation in the mandatory meals program would adversely affect the tenant's health for dietary or medical reasons;

(2) The mandatory meals charges at the project would constitute a financial hardship on the tenant;

(3) Participation in the mandatory meals program would constitute a violation of the tenant's religious or cultural beliefs;

(4) The mandatory meals charges would be financially disadvantageous for the tenant because the tenant could obtain substantially similar meals for less cost on his or her own initiative or through a community-based meals program at an altenative site;

(5) Participation in the mandatory meals program would interfere substantially with the tenant's vocational, social, eduational or recreational activities; or

(6) The tenant is permanently immobilized or otherwise incapable of visiting the central dining facility. (After one month of serving meals in a temporarily incapacitated tenant's dwelling unit, a project owner must either continue serving meals in the tenant's dwelling unit during the period of incapacity or approve a temporary exemption from the mandatory meals program.)

The legal services organization also recommended that HUD add requirements for: (1) Certain notice protections to affected tenants, (2) procedures for exemption requests, (3) appeal procedures, (4) judicial review of HUD's denial of exemption requests, (5) an affirmative duty of project owners to relocate tenants, and (6) a prohibition on the use by project owners of discriminatory selection criteria.

According to AAHA, proposed § 278.12(a)(3) should be revised to limit the time period for the vacation-based exemption. According to this comment, HUD's provision of a broad exemption for vacations would serve to encourage lengthy periods away from a project. IREM agreed with the general concerns of AAHA on the vacation-based exemption, and recommended that a resident be required to pay for the first week's meals where the project administrator had not been provided with reasonable prior notice.

IREM also recommended that the rule require an alternative menu only for "bona fide" religious practices, not for "unusual or unknown" religious practices.

The California Department of Aging proposed that § 278.12(a)(1) be modified to provide a dietary exemption for other than medical reasons.

HUD has weighed the comments that advocated the expansion of the proposed exemptions in addition to those comments that advocated the narrowing of those exemptions, and has decided to retain the exemption categories as proposed in § 278.12. In adopting the mandatory exemptions in proposed § 278.12 without modification, HUD has balanced the desirability of specific exemptions against the need of projects that operate mandatory meals programs for a steady stream of sufficient income to ensure the financial stability of those programs. HUD has determined that in each of the situations where the proposed rule requires an exemption: (1) Tenants either would not be present to eat the meals provided or would be unable to eat them for medical or religious reasons, and (2) these circumstances appear to occur infrequently enough that the fiscal soundness of a project's mandatory meals program would not be jeopardized by requiring the exemptions contained in the proposed rule.

The rule also permits project owners to grant any tenant an exemption because of dietary practices, for financial reasons, or for other reasons. (Project owners are encouraged to accommodate the dietary practices of their current and prospective tenants, even if those dietary practices are not based on religious reasons.)

HUD has determined that the proposed revision by AAHA and IREM on the proposed vacation-based exemption (§ 278.12(a)(3)) could limit unnecessarily the exercise of that exemption by tenants. IREM's recommendation concerning HUD's limitation of a religious-based exemption for "bona fide" religious practices, but not "unusual or unknown" religious practices would involve the Department in possible violations of the First Amendment of the U.S. Constitution similar provisions in State constitutions.

Concerning the recommended revision of proposed § 278.12 to include certain procedural requirements, HUD has added a notification provision in § 278.10(b). HUD has determined that the other procedural requirements concerning exemption requests that were recommended by a legal services organization are not necessary to ensure that project owners respect and implement the exemptions provided in § 278.12. HUD intends to monitor project owners' compliance with this rule and will enforce the rule in accordance with § 278.30.

Section 278.14 Tenant incapacity.

A legal services organization recommended that proposed § 278.14 be revised to include procedures similar to those it recommended for proposed § 278.12, *i.e.*, procedures for project owners to follow when considering tenant claims either for the delivery of meals to their rooms or for exemptions from mandatory meals charges, and for tenant appeals of project owner rejections of tenants' requests submitted under § 278.14.

AAHA and other industry organizations stated their general support for proposed § 278.14, but proposed that a nominal fee (e.g., one dollar) be permitted for the delivery of meals to an incapacitated tenant's unit. Delivery services would be provided without charge, subject to advance notice, for an initial period, with the fee imposed after the first week to cover service expenses. According to this proposal, at a minimum HUD should permit nominal charge for meal delivery to coincide with one-month incapacitation period recognized under proposed § 278.14(a).

The Texas Department of Human Services proposed that the one-month limitation on a project owner's obligation to provide meals to a temporarily incapacitated tenant's dwelling unit should be eliminated and replaced with an obligation to provide meal service for the full period of physical incapacity.

HUD has determined that the recommended revisions of proposed § 278.14 submitted by the legal services organization are likely to create administrative burdens for project owners that would be out of proportion to any possible benefit to tenants. In addition, HUD has determined that as proposed, § 278.14 would provide adequate standards and safeguards for the needs of affected tenants with temporary physical incapacities.

HUD agrees that for the first month of meals service at an incapacitated tenant's dwelling unit, the additional fees proposed by AAHA and other industry organizations would penalize unnecessarily an incapacitated tenant's use of § 278.14. However, beyond the initial one-month period, HUD believes that a project owner should be allowed to charge a reasonable fee for the administrative costs involved in the continued delivery of meals to a tenant's dwelling unit. Under § 278.20(h) of this rule, after the initial one-month period, if the incapacitated tenant requests in writing that the meals service continue to that tenant's dwelling unit, the owner may charge up to one dollar per meal to offset administrative costs for that service. (Alternatively, under §§ 278.12(a)(4) and 278.14(a), the owner may grant an exemption from a project's mandatory program.) In response to the proposed revision recommended by the Texas Department of Human Services, the Department believes that under § 278.20(h), project owners will have an incentive to continue to provide meals service to incapacitated tenant's dwelling units throughout the term of tenants' physical incapacity.

Section 278.20 Cost management.

A legal services organization commented that proposed § 278.20 should be revised as follows:

(1) Proposed § 278.20 should require that mandatory meals charges be modest, reasonable, and affordable. Without this protection, the section is contrary to the purpose of the National Housing Act (see, e.g., 12 U.S.C. 1715z–1(a)), which is to provide affordable housing to low-income tenants.

(2) HUD should not approve a meal charge or an increase of meal charges unless it determines that: (a) The proposed meal charge will not result in a financial hardship to tenants; and (b) the proposed meal charges will not exceed the costs at which tenants could otherwise cook, obtain, or purchase adequate meals.

(3) Proposed § 278.20 fails to state adequate procedures to guarantee that meal charges are modest, reasonable, and affordable. Under proposed § 278.20, there is no requirement that a project owner obtain prior written HUD approval for the initial meal charges of a mandatory program in a new HUD-assisted project.

(4) HUD should not approve an increase in meal charges for a mandatory meals program that "could result in financial hardship to twenty-five percent of tenants at the project." In addition, this comment recommended that HUD should make certain findings for purposes of its decision to increase meal charges.

(5) After HUD has made its decision whether to approve a project owner's request for an increase in meal charges, HUD will furnish the owner with a written statement of the reason for approval or disapproval. In addition, the owner shall inform the tenants of HUD's decision by posting or delivering notice of the decision. The owner shall mail notice of any increase in mandatory meal charges to all affected tenants at least 30 days prior to the effective date of the increase.

A consultant for certain tenants in affected HUD-assisted projects proposed that a mandatory meals program be reviewed by an independent tenant organization to ensure that the program is being operated on a non-profit basis and to create various incentives to improve the quality and cost-effectiveness of the services (e.g., to provide a coupon-based system, rather than a uniform requirement for one meal a day). Under this structure, HUD would be required to consider the recommendations of tenant organizations.

HUD has determined that the recommended revisions from the legal services organization and by the aforementioned consultant are unnecesary to ensure that mandatory meals charges are modest, reasonable, and affordable, and would create excessive administrative burdens for the sponsors of HUD-assisted projects for the elderly or handicapped. Through the implementation of § 278.20, HUD intends that mandatory meals programs will be operated solely for the nutritional and social benefit of tenants in affected projects for the elderly, and not as profit-making enterprises by project owners. This rule requires that mandatory meals programs be conducted on a non-profit basis and includes requirements covering situations where a meals program achieves an operating surplus at the end of a project's fiscal year. The Department believes that the requirements of § 278.20 will be sufficient to ensure that charges under a mandatory meals operation are modest. Section 278.20(a) requires that: (1) The program operate on a non-profit basis; (2) any surplus funds be used either to reduce future meals charges or to offset operating deficits from previous years; (3) meal charges be restricted to the cost of purchasing, preparing, and serving the meals; and (4) any mandatory meals service provided by a commercial firm must be comparable to the cost of mandatory meals served in other HUD-assisted projects in the local area, or, if there are no such projects with mandatory meals, to the cost of meals in comparable projects in the local area. Under § 278.20(d), prior written approval from HUD is necessary for increases in mandatory meals charges.

AAHA and IREM raised concerns about the requirement in proposed § 278.20(b) that the cost of the program be limited to the per capita cost of purchasing the food products and of preparing and serving the meals. AAHA was uncertain whether allowable costs would include replacement of kitchen capital equipment used in food preparation. It recommended that some consideration be permitted in meals program costs for repair and replacement of kitchen capital equipment. According to AAHA, it is reasonable to permit a small replacement reserve to be set aside for equipment that fails or deteriorates in the process of food preparation. However, according to AAHA, it is more appropriate that these costs for repair and replacement be paid from program revenues rather from project capital replacement reserves. In addition, AAHA requested clarification of which allowable costs would be associated with "preparing" and "serving" meals, of the methodology for the initial approval of meal charges and subsequent increases in meals charges in § 278.20(d), and of HUD policy concerning the use of USDA food stamps and commodity surplus programs in HUD-approved mandatory meals programs. The Georgia Association of Homes and Services for the Aging (GAHSA) commented that proposed § 278.20(e) should be revised to allow operating surplus funds to be placed in a reserve account for equipment repair and replacement.

HUD has determined that generally, the concerns of AAHA and IREM on § 278.20(b) should be addressed in future HUD Handbooks and other program guidance. However, HUD rejects: (1) AAHA's recommendation that the repair and replacement costs for some kitchen capital equipment, lighting fixtures, and other dining room furnishings should be met from meals charges, because HUD believes that the amount charged for mandatory meals should be limited to the per capita cost of purchasing the food products and of preparing and serving the meals; and (2) GAHSA's comment regarding surplus funds, because HUD is concerned that any surplus funds be used directly for purposes related to minimizing the cost of mandatory meals programs in affected projects.

The Texas Department of Human Services recommended that § 278.20(a) be revised to include specific criteria for commercial firms that provide meals on a for-profit basis, *i.e.*, that the contracts be awarded on a competitive procurement basis. HUD rejects this proposed revision because of its concern that project owners have discretion to choose an appropriate contractor within the requirements of § 278.20. In addition, where applicable, project owners must comply with the financial management requirements in OMB Circulars A–102 ("Uniform requirements for grants to State and local governments") and A–110 ("Uniform requirements for grants to universities, hospitals, and other nonprofit organizations").

Section 278.22 Lease provisions.

One legal services organization contended that it is "unconscionable" that a "substantial failure" of a tenant to comply with the mandatory meals agreement could subject a tenant to eviction proceedings. It recommended that the mandatory meals agreement not be incorporated as part of a tenant's lease, but rather constitute a separate contract. Other commenters (including a tenant organization from Oakland, California and the Texas Department of Human Services) recommended that "substantial failure" should be clearly defined in the meals agreement and that notification of the exemption categories and other provisions of this rule should be provided clearly in the meals agreement. HUD has determined that the incorporation of the mandatory meals agreement as part of a tenant's lease should aid in ensuring that prospective tenants understand the implications of the agreement. In addition, HUD believes that it would be more appropriate that other administrative or judicial forums (*i.e.*, a local landlord-tenant court) define and determine the applicability of "substantial failure" in § 278.22 in the context of an eviction proceeding brought on that ground or on other contractual grounds that could arise in the implementation of a HUD-approved mandatory meals program.

Section 278.24 Conversion of a meals program to a mandatory program or the establishment of a mandatory meals program in an existing project.

One legal services organization recommended that HUD not approve any conversion to or establishment of a mandatory meals program until HUD has made certain determinations, including: (a) The cost of alternative meals provided outside the project or with food products purchased by the tenant; (b) the preference of tenants at the project concerning the establishment of a mandatory meals program; (c) whether the meals program would result in a financial hardship on tenants; and (d) the economic feasibility of a voluntary meals program at the project.

AAHA stated its concern that proposed § 278.24(c) allows current residents in existing projects to refuse to participate in a mandatory meals program. According to AAHA, given the low turnover rate in most projects for the elderly with HUD assistance, the effect of such a requirement would result in very limited tenant participation in mandatory meals programs in existing projects. In addition, AAHA recommended that tenants be provided an opportunity to vote on the conversion of a project's voluntary meals program or the establishment of a mandatory meals program in an existing project, with a possible phase-in period for mandatory participation in the meals program.

For the reasons stated in part I of this preamble, HUD has determined that where sponsors of existing projects have decided to operate a voluntary meals program or have not established any meals service, there has not been sufficient reliance on HUD's mandatory meals policy to justify a later conversion to a mandatory program.

Section 278.30 Noncompliance.

A legal services organization supported proposed § 278.30, but recommended that HUD add affirmative requirements for HUD monitoring of project owner compliance with Part 278. A tenant organization recommended that requirements be added to mandate an annual HUD review of: (1) The financial soundness of the program as administered at the respective projects; (2) the nutritional quality of the meals served; and (3) an assessment of tenant satisfaction with the meals served. Based on the results of this annual review, HUD would be given broad authority to terminate the mandatory program at any project. The Texas Department of Human Services recommended that HUD add stronger sanctions than withdrawal of HUD approval from a meals program for violations of certain sections of Part 278.

AAHA requested additional clarification concerning: (1) The meaning of "failed substantially to comply with the requirements of this part" in proposed § 278.30 (including examples of the type of deficiencies in program operation that HUD would consider sufficient to warrant withdrawal of program approval); (2) whether HUD would permit project sponsors to correct any deficiencies before its withdrawal of approval; and (3) whether any appeals procedure is available for project owners to contest either deficiency determinations or a decision to terminate a mandatory meals program.

HUD rejects these proposed revisions to § 278.30 because they would interfere with the Department's enforcement discretion, and the Department has determined that the sanctions established in § 278.30 are sufficient to enforce compliance with Part 278. HUD expects to address the items in AAHA's request for clarification of § 278.30 in a future HUD Handbook or other program guidance for the implementation of this rule.

III. Miscellaneous

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. Although this rule will affect a number of small entities, it will not have a substantial economic impact. The rule clarifies the Department's requirements for mandatory meals programs and facilitates the operation of central dining facilities and meals programs in HUD-assisted projects for the elderly.

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520).

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours

in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

This rule was listed as item number 828 in the Department's Semiannual Agenda of Regulations published on October 27, 1986 (51 FR 38424, 38445) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.103, 14.137, 14.156, and 14.157.

List of Subjects in 24 CFR Part 278

Aged, Grant programs: housing and community development, Handicapped, Grant programs: housing and community development, Low and moderate income housing, Mandatory meals program, Mortgage insurance, Rent subsidies.

Accordingly, a new Part 278 is added in Title 24, Code of Federal Regulations, to read as follows:

PART 278—MANDATORY MEALS PROGRAM IN MULTIFAMILY RENTAL OR COOPERATIVE PROJECTS FOR THE ELDERLY OR HANDICAPPED

Subpart A—General

Sec.
278.1 Purpose.
278.3 Applicability.

Subpart B—Mandatory Meals Programs

278.10 Administration of a mandatory meals program.
278.12 Exemptions.
278.14 Tenant incapacity.

Subpart C—Program Management

278.20 Cost management.
278.22 Lease provisions.

Subpart D—Enforcement

278.30 Noncompliance.

Authority: Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q); sec. 101 of the Housing and Urban Development Act of 1965, (12 U.S.C. 1701s); sec. 211 of the National Housing Act (12 U.S.C. 1715b); sec. 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f); sec. 7(d), Department of Housing and Urban Development Act (12 U.S.C. 3535(d)).

Subpart A—General

§ 278.1 Purpose.

(a) This part establishes requirements governing mandatory meals programs in HUD-assisted projects for the elderly or handicapped where these projects are equipped with central dining facilities. Central dining facilities must include a kitchen with sufficient equipment to prepare the meals and a dining area of sufficient size to serve the residents of the project together or in accordance with a schedule set by the project owner or manager.

(b) (1) Project owners are responsible for compliance with any requirements established by State or local nutritional and safety and health standards in applicable statutes and regulations, and with requirements established in contracts with their tenants. Where no State or local statute or regulation covers a mandatory meals program governed by this part, the project owner shall submit annually to HUD a certification from a registered dietician that the project's meals program has been designed to ensure that each mandatory meal provides a minimum of one-third of the daily recommended allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council (as required for certain assistance programs of the U.S. Department of Health and Human Services under section 3030e of the Older Americans Act of 1965, 42 U.S.C. 3001–3058d).

(2) HUD approval of a project's mandatory meals program neither creates an inference that the requirements of State or local law have been met, nor does HUD approval preempt nutritional and health and safety standards in applicable State or local statutes and regulations.

(c) HUD-approved mandatory meals charges under this part are not "rent" under any of the assisted housing programs cited in § 278.3(b) of this part.

§ 278.3 Applicability.

A project is covered under this part if it meets the conditions of paragraphs (a) through (c) of this section.

(a) (1) Statutory authority for HUD financial assistance for the project requires that occupancy be limited to the elderly or handicapped; or

(2) The HUD regulatory agreement designates the project as housing for the elderly or handicapped; or

(3) HUD requires a preference in tenant selection for the elderly or handicapped for all units in the project.

(b) (1) The project receives a subsidy in the form of—

(i) Interest reduction payments under section 236 of the National Housing Act (including State-assisted projects without HUD mortgage insurance);

(ii) Below-market interest rates under sections 221(d)(3) and 221(d)(5) of the National Housing Act; or

(iii) Direct loans under section 202 of the Housing Act of 1959; or

(2) Some or all of the units in the project are covered under this part if those units receive—

(i) Rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 (including State-assisted projects without HUD mortgage insurance);

(ii) Housing assistance payments under 24 CFR Part 886, Subpart A (Section 8 Loan Management Set Aside), for projects that converted their rent supplement contracts under section 101 of the Housing and Urban Development Act of 1965 to such assistance for the term of the HAP contract; or

(iii) Housing assistance payments under section 8 of the United States Housing Act of 1937 (other than assistance to families under the Section 8 Existing Housing Certificate Program or the Housing Voucher Program), including Section 8 housing assistance payments by State housing agencies under 24 CFR Part 883, Subpart E (other than assistance to families under the Section 8 Existing Housing Certificate Program or the Housing Voucher Program).

(c) This part is not applicable to HUD-assistance projects for the chronically mentally ill, developmentally disabled, or physically handicapped.

Subpart B—Mandatory Meals Programs

§ 278.10 Administration of mandatory meals program.

(a) Where, before April 1, 1987, a covered project was operating a HUD-approved mandatory meals program, the project owner may require as a condition of occupancy that one meal per day be purchased by tenants residing in the project. Where, before April 1, 1987, the effective date of this rule, HUD has approved mandatory meals programs that require the purchase of two or more meals per day by tenants, project owners may continue to require as a condition of occupancy and purchase of the same number of meals, or fewer meals per day.

(b) Where HUD has approved a project owner's requirement of one meal (or more) per day under the program, all prospective tenants for admission to the project must be given notice, before the lease is executed, that participation in the program is a condition of occupancy in that project. In addition, project owners shall notify in writing current and prospective tenants of the exemptions in § 278.12.

(c) A project owner shall administer the project's mandatory meals program in a nondiscriminatory manner as required under Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

(d) After April 1, 1987, HUD will not approve a project owner's request for the establishment of a new mandatory meals program in any project.

§ 278.12 Exemptions.

(a) A project owner with a mandatory meals program shall grant an exemption from purchasing meals under the program to:

(1) Any tenant with a medical condition that requires a special diet that the project cannot provide. To be entitled to this exemption, the project owner may require a tenant to provide documentation signed by a physician, stating that the tenant requires a special diet for medical reasons. The physician's statment must contain a description of the special diet. If the project cannot provide the diet specified in the physician's signed statement, the project owner shall grant the tenant a medical exemption. (However, if the project owner determines that a special diet for certain tenants can be provided, it must be provided at no increased cost to those tenants.)

(2) Any tenant with a paying job that requires absence from the project during the time period that the mandatory meals are served.

(3) Any tenant who is absent from the project for one week or more for hospital care, temporary nursing home care, or vacation. The project owner may require tenants to provide reasonable advance notice of any anticipated absence for a reason described in this paragraph, except absences for hospital care of an emergency nature; or

(4) Any tenant who is permanently immobile or otherwise incapable of visiting the central dining facility (see § 278.14(b)). (In addition, under § 278.14(a), after one month of serving meals in a temporarily incapacitated tenant's dwelling unit, a project owner must either continue serving meals in the tenant's dwelling unit during the period of incapacity or grant a temporary exemption from the mandatory meals program.)

(b) A project owner may grant any tenant an exemption because of the tenant's dietary practices, for financial reasons, or for other reasons. Where a project owner does not grant an exemption for a religious-based dietary practice, the owner must offer an alternative menu that does not conflict with the tenant's religious dietary practice.

(c) Any exemption granted under this section (including the temporary exemption referred to in paragraph (a)(4) of this section) shall only be in effect during the period that the tenant meets the specified conditions for the exemption.

(d) Where, before April 1, 1987, a project owner has granted to any tenant an exemption from purchasing meals under the program, the exemption will remain valid during the period that the tenant meets the specified conditions for the exemption.

§ 278.14 Tenant incapacity.

(a) The project owner shall provide for the serving of meals in a tenant's dwelling unit if the tenant is temporarily immobile or otherwise incapable of participating in the mandatory meals program in the central dining facility. After one month of serving meals in an incapacitated tenant's dwelling unit, a project owner shall either continue serving meals in the tenant's dwelling unit during the period of incapacity or grant a temporary exemption for the tenant from the mandatory meals program. (See § 278.20(h) for allowable additional charges for special meals service under this section after the initial one-month period.)

(b) Where a tenant is permanently immobile or otherwise incapable of visiting the central dining facility, the project owner shall either continue the tenant's participation in the madatory meals program but provide for the tenant's meals to be served in his or her dwelling unit, or grant an exemption from the mandatory meals program. (This paragraph is not intended to describe the requirements of section 504 of the Rehabilitation Act of 1973.)

(c) A tenant's use of a wheelchair, walking support, or similar equipment to enable the tenant to visit the central dining facility may not be considered as conclusive evidence of the tenant's temporary or permanent incapacity.

Subpart C—Program Management

§ 278.20 Cost management.

(a) A project's mandatory meals program shall be operated as a non-profit operation. Project owners shall not use income from the meals operations to subsidize other project costs, nor use project rental income (including HUD housing assistance payments) to subsidize costs associated with purchasing, preparing, or serving meals. However, a project owner may contract with a commercial firm to provide meals to the project's tenants, and that commercial firm may operate the meals service on a for-profit basis. To qualify under this provision, the commercially provided meals must:

(1) Be served in the central dining facility of the project, and

(2) Be comparable, in cost to the program participants, to the cost of mandatory meals served in other HUD-assisted projects in the local area, or if there are no other mandatory meals programs in HUD-assisted projects in the local area, to meal charges in comparable projects in the local area.

(b) With HUD approval, tenants may be charged a specific amount per month for participation in a mandatory meals program. The amount charged for mandatory meals shall be limited to the per capita cost associated with purchasing the food products and with preparing and serving the meals. Neither operating expenses related to equipment purchase (or replacement) or the maintenance of the central dining facility (including labor, utilities, and the maintenance of equipment) nor the project's debt service may be included in the meal charges.

(c) Charges under a mandatory meals program are not rent and must be accounted for in the project's accounting system as a separate revenue item. A tenant may, however, pay for both rent and meal charges with one monthly payment. Project owners shall maintain separate accounting records for expenses and account balances directly related to the mandatory meals operations.

(d) A private owner may not increase charges for participation in a mandatory meals program without prior written approval from HUD. A request for such an increase must be submitted in writing to HUD with adequate supporting documentation, as determined by HUD.

(e) If a mandatory meals program achieves an operating surplus at the end of a project's fiscal year, the project owner must use the surplus funds—

(1) To offset operating deficits created from previous years of mandatory meals operations (including years that preceded the effective date of this part);

(2) To offset projected increases in meals charges for the next fiscal year; or

(3) To reduce meals charges for the next fiscal year.

(f) Project owners shall take action to limit the per capita cost of mandatory meals by allowing eligible tenants to pay for meal charges with food stamps (in accordance with regulations of the U.S. Department of Agriculture at 7 CFR Parts 271 through 278) and by participating in surplus food programs (in accordance with regulations of the U.S. Department of Agriculture at 7 CFR Part 250).

(g) Project owners may take action to limit the per capita cost of mandatory meals by raising funds from other sources, including but not limited to, soliciting subsidies from State and local

governments or donations from businesses or charitable organizations, and sponsoring fund-raising events where State or local jurisdictions permit.

(h) No additional charge for the initial one-month period of physical incapacity may be imposed by project owners for delivering meals to an incapacitated tenant's dwelling unit as required under § 278.14. After the initial one-month period, if the incapacitated tenant requests in writing that the meals service continue to that tenant's dwelling unit, the owner may charge up to one dollar per meal to offset administrative costs for that service.

§ 278.22 Lease provisions.

(a) A separate contract shall be executed explaining a tenant's obligations under a project's mandatory meals program. This contract will be incorporated as part of the tenant's lease, and substantial failure by a tenant to comply with the mandatory meals agreement will be a violation of the lease and will subject the tenant to eviction procedures in accordance with the lease.

(b) The mandatory meals agreement must specify the number of meals required, the duration of the meals agreement, and the charges for the meals at the time the agreement is signed. The agreement must incorporate by reference the requirements of this part, and shall be signed and executed by the tenant and the owner.

(c) Owners of HUD-assisted projects with mandatory meals program shall revise lease agreements to implement the requirements of this part as the term of each lease comes due for renewal or not more than 12 months from the effective date of this part.

Subpart D—Enforcement

§ 278.30 Noncompliance.

Where HUD determines that a project owner has failed substantially to comply with the requirements of this part, HUD shall take appropriate action, which may include the withdrawal of the Department's approval of the project's mandatory meals program. Within 30 days after the date of HUD's notice to the project owner of the withdrawal of the Department's approval, the project owner shall notify its tenants in writing that the meals program is no longer mandatory.

Dated: February 20, 1987

Susan K. Zagame,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 87-4244 Filed 2-27-87; 8:45 am]

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March 2, 1987

Part V

Nuclear Regulatory Commission

10 CFR Part 73

Requirements for Criminal History Checks; Final Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

Requirements for Criminal History Checks

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is adding a new regulation to implement a program for the control and use of criminal history data received from the Federal Bureau of Investigation (FBI) as part of criminal history checks of individuals granted unescorted access to nuclear power facilities or access to Safeguards Information by nuclear power reactor licensees. Conducting criminal history checks of such individuals will help assure that individuals with criminal histories impacting upon their reliability and trustworthiness are not permitted unescorted access to a nuclear power facility or access to Safeguards Information. Issuance of this regulation is required under the provisions of Public Law 99–399, "Omnibus Diplomatic Security and Anti-Terrorism Act of 1986."

EFFECTIVE DATE: April 1, 1987.

FOR FURTHER INFORMATION CONTACT: Kristina Jamgochian, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427–4754.

SUPPLEMENTARY INFORMATION:

Background

Section 606 of Pub. L. 99–399, "The Omnibus Diplomatic Security and Anti-Terrorism Act of 1986," requires nuclear power reactor licensees and applicants to conduct criminal history checks through the use of FBI criminal history data on individuals with unescorted access to nuclear power facilities or access to Safeguards Information. The Act, signed by the President on August 27, 1986, requires the NRC to issue regulations to establish conditions for the use and control of the criminal history data received from the FBI. These conditions include procedures for the taking of fingerprints, limits on use and redissemination of criminal history data, assurance that the information is used solely for its intended purpose, and provisions that individuals subject to fingerprinting are provided the right to complete, correct, and explain information in their criminal history records prior to any final adverse determination.

On November 7, 1986, the NRC published the proposed rule in the **Federal Register** (51 FR 40438). The comment period ended on December 8, 1986.

Summary of Public Comment

Comments were received from 35 respondents comprised of 25 power reactor licensees, three industry groups, three private citizens, two contractors, one engineering firm, and one State agency. Copies of comment letters are available for public inspection and copying for a fee at the NRC Public Document Room at 1717 H Street NW., Washington, DC.

The proposed rule has been modified in response to comments received, as appropriate, and is being published in final form effective on the date of publication of this notice. A summary of the public comments, along with their resolution, follows. The comments have been placed in the following categories:

1. Facility Access vs. Vital Area Access.
2. Grandfathering.
3. Temporary Unescorted Access.
4. Contractors, Manufacturers, and Suppliers.
5. Challenge of Information.
6. Transfer of Criminal History File.
7. Miscellaneous Issues.

1. *Facility Access vs. Vital Area Access.* During the internal staff review of the proposed rule, a question arose as to whether or not fingerprinting should be required only for unescorted access to vital areas rather than to the nuclear power facility which also includes protected areas. To be consistent with the legislative intent and specific language of Pub. L. 99–399, the staff had written the proposed rule to require fingerprinting of individuals granted unescorted access to the nuclear power facility. Additionally, during the public comment period on the proposed Access Authorization Rule, licensee and industry groups commented that it was more cost effective to run a single access authorization program, especially since the majority of employees needing access to the protected area also required access authorization to one or more vital areas. In the interest of determining whether this view still prevailed, specific response was requested during the public comment period to the following question: Should fingerprinting be required of individuals for unescorted access to vital areas only or to the nuclear power facility? In response to the question, the following responses were received: 13 commenters recommended fingerprinting all individuals granted unescorted access to the nuclear power facility, 2 commenters recommended fingerprinting for vital area unescorted access only, and 2 commenters felt that the decision should be left with the licensee. A majority of the commenters who felt that it would be an administrative burden to fingerprint for unescorted access to vital areas only, based their conclusions on the fact that it would be inefficient to establish two screening programs since it is industry's experience that in over 70% of the cases, those personnel authorized unescorted access to protected areas of the plant also require access to vital areas of the plant, and that an effective security program requires fingerprinting of all individuals with unescorted access to the plant.

Accordingly, as a single level of access authorization enhances security, reduces the administrative burden, promotes efficiencies in administering the program, and as licensees currently have one access authorization program for unescorted access to both protected and vital areas of the plant, fingerprinting will be required of all individuals requiring unescorted access to the nuclear power facility, which is to both the protected areas and vital areas of the plant.

2. *Grandfathering.* Eighteen respondents recommended that a provision be incorporated for grandfathering individuals permanently employed by a licensee with a stipulated minimum period of employment. The NRC staff recognizes that in many of these cases individuals have been screened under an industry run access authorization program which may also include behavioral observation. The staff also recognizes the administrative burden and cost associated with fingerprinting all current employees requiring unescorted access to the nuclear power facility. However, Pub. L. 99–399 mandates that "The Nuclear Regulatory Commission . . . shall require each licensee . . . to fingerprint *each individual* who is permitted unescorted access to the facility or is permitted access to Safeguards Information under Section 147." Commenters have pointed out that the Public Law states: "The Commission, by rule, may relieve persons from the obligations imposed by this section, upon specified terms, conditions, and periods, . . ." However, in "The Report of the Committee on the Judiciary United States Senate on S. 274, As Amended," September, 1985, in VII. Section-by-Section Analysis, it is stated that "The Committee is of the view that

this exception be used only in extraordinary circumstances."

Grandfathering currently employed individuals with unescorted access is not considered to be an extraordinary circumstance and does not meet the intent of Congress. Accordingly, grandfathering individuals currently employed on the effective date of final rule publication will not be permitted.

3. *Temporary Unescorted Access.* The majority of respondents requested clarification in the final rule regarding temporary unescorted access during the period of time required to process and return the submitted fingerprints to the licensee for newly hired individuals, especially during refueling or maintenance outage when a nuclear power facility is in cold shutdown. This issue is resolved in the final rule in that the provisions of the rule may be waived for devitalized areas when all or a part of a nuclear power facility is in cold shutdown, refueling, or devitalized status. This is allowable due to the fact that prior to startup, a thorough visual inspection of the devitalized area is made by knowledgeable plant personnel to identify signs of tampering or attempted sabotage, and appropriate safety procedures are followed to assure that all operating and safety systems are functioning normally.

In addition, a number of respondents requested clarification in the final rule concerning the status of temporary workers during unexpected equipment failures or maintenance outages. Commenters noted that if a facility has a sudden, unexpected equipment failure, a number of temporary personnel may be needed immediately to fix the problem and the estimated 25-day turnaround time for fingerprint verification could delay a plant from starting up as scheduled. The Commission notes that the broader issue addressing requirements for granting temporary access is currently under NRC management review and the role of fingerprinting in that context is not yet defined. Pending resolution of this broader issue it is premature to stipulate in this rule the fingerprint requirements associated with temporary access. Accordingly, as a temporary measure, a statement has been included in § 73.57(b)(2) stating that upon further notice to licensees and without further rulemaking the Commission may waive requirements of this fingerprint rule on a temporary basis for temporary workers.

4. *Contractors, Manufacturers, and Suppliers.* A number of commenters felt that requiring criminal history checks of contractors, manufacturers, and suppliers for access to Safeguards Information was unreasonable, as it was difficult for licensees to directly control whether employees of contractors, manufacturers, and suppliers requiring access to Safeguards Information were, in fact, fingerprinted. The NRC staff recognizes the difficulty for licensees in controlling who is actually having access to Safeguards Information utilized by contractors, manufacturers, and vendors. However, the staff believes that the magnitude of the problem is not as great as perceived and can be significantly diminished through the proper use of information management techniques. Licensees and applicants may find it more appropriate to segregate general or nonsensitive information into unprotected appendices or attachments. Initial requests for bids or proposals and original design sketches, for example, would probably not qualify as Safeguards Information. The NRC's NUREG–0794, "Protection of Unclassified Safeguards Information" [1] provides criteria and guidance to assist licensees and other persons who possess Safeguards Information in establishing an information protection system that satisfies the requirements of 10 CFR 73.21.

In addition, a commenter expressed concern for the privacy of the personal information and felt that the control of dissemination of this information would be better served by collecting and maintaining the specific information in an individual's criminal history record check file with the individual's actual employer, rather than having the information held by other organizations. The staff recognizes the merit in this comment but the Public Law only allows for dissemination of the information contained in an individual's criminal history record to and between licensees.

Commenters requested that the rule allow for these non-licensees to directly submit fingerprint cards to the NRC and maintain the files as the licensees feel that they cannot directly control every contractor, manufacturer, and supplier employee who designs, assembles, or operates all equipment which falls under the definition of Safeguards Information in 10 CFR 73.21. Respondents also felt that there should be a provision allowing utilities to pass on criminal history data to the agency that is completing the remainder of the background investigation for unescorted access so that the complete file on an individual would be stored in one place and would be much more accessible for audit by the utility and the NRC. According to the FBI, the information contained in a criminal history record may not be disseminated to anyone other than the licensee. Licensees may hire a contractor to actually do the initial fingerprinting of individuals if they so wish, but that would be the extent of involvement on the contractor's part for criminal history record checks.

A provision for transferring the data from one licensee to another only upon the individual's request is contained in the rule to preclude excessive fingerprinting, especially for contractors, suppliers and manufacturers. The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to the nuclear power facility or access to Safeguards Information.

5. *Challenge of Information.* A number of commenters requested clarification on whether an individual who chooses to correct, complete, or explain an alleged deficiency in his/her criminal history record should be granted or denied unescorted access while the challenge of information is in progress. The decision to grant or deny access while a challenge is being processed is at the discretion of and is the responsibility of the licensee. This is a judgment decision by the licensee and is dependent on the needs of the situation, the availability and cost of escort, prudence, security considerations, and other factors perceived by the licensee.

Respondents also requested specific definition of the two terms "final adverse action" and "reasonable amount of time" contained in the proposed rule under § 73.57(e)(2). Pub. L. 99–399, section (c)(3), states that the Commission shall prescribe regulations "to provide each individual subject to fingerprinting under this section with the right to complete, correct, and explain information contained in the criminal history records prior to any final adverse determination". The term "reasonable amount of time" was added to the proposed rule to indicate that to be workable, some practical limits were necessary on the time for the challenge to take place. Accordingly, the staff has

[1] Copies of NUREG–0794 may be purchased through the U.S. Government Printing Office by calling (202) 275–2060 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. A copy is available for inspection and/or copying for a fee in the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

revised the rule to state: "Licensees must provide at least 10 days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for his/her review. The licensee may make a final adverse determination, if applicable, only upon receipt of the FBI's confirmation or correction of the record." The FBI has indicated that once they receive a formal challenge of the record, a re-check is completed within approximately 3–4 weeks and the information is then returned to the licensee. Therefore, given 10 days to initiate action, an estimated one-month FBI resolution time, and allowance for the information to be mailed back and forth, the time involved could average in the order of 60 days. The licensee may not make a final adverse determination, such as termination of the individual's employment, if applicable, until the licensee receives confirmation or correction of the challenged disposition of an arrest.

6. *Transfer of Criminal History File.* A number of comments were received concerning the transfer of access authorization. In analyzing the comments, it appears that the respondents were confusing the requirements of FBI criminal history checks with the broader requirements for unescorted access authorization. It is noted that this rule is intended to explicitly address the requirements associated with the FBI criminal history data which is only one element of a background investigation portion of an industry-run access authorization program. The provisions in this rule allow the data in an individual's criminal history file to be transferred to another licensee for consideration in granting unescorted access to the gaining licensee's facility under two conditions: upon the individual's request to re-disseminate the information contained in his/her file, and if, for identification purposes, the gaining licensee verifies information such as name, date of birth, social security number, sex, and other applicable physical characteristics. The proposed rule contained a third conditional provision: that if an individual was terminated in the previous 365 days, the termination had to have been under favorable conditions. However, according to comments by several licensees, the third provision was being interpreted as requiring termination in all cases before the contents of the FBI criminal history file could be transferred. That is, that the individual had to also have been terminated before his/her criminal history file could be transferred. That was not the intent. Staff analysis has concluded that the third conditional provision was unnecessary and accordingly, it has been dropped from the final rule.

In addition, for clarification of § 73.57(f)(5), if the data contained in an individual's criminal history file needs to be transferred to another licensee, a copy of the data should be sent to gaining licensees. The original file should be retained by the original licensee for a one-year retention period upon the individual's termination of employment or denial of unescorted access or access to Safeguards Information at that facility.

Comments were also received requesting that the final rule contain provisions for reinstating an individual who is returning to the same utility and requires unescorted access. To preclude re-fingerprinting an individual who is returning to the same utility, the final rule allows the licensees to use their discretion in not having to re-fingerprint this individual under the following conditions: If the individual's unescorted access authorization under an industry-run program has not been interrupted for a continuous period of more than 365 days and the individual's previous unescorted access was terminated under favorable conditions.

7. *Miscellaneous Issues.* Several miscellaneous issues which did not fit the previous categories were raised by respondents. These are addressed below.

The proposed rule required criminal history records to be available onsite for examination by NRC. Several multi-site licensees reported that they maintain centralized records at corporate headquarters and contended that such a requirement would require substantial duplication of facilities and records. Accordingly, the word "onsite" has been deleted from the final rule to allow these licensees the requested flexibility.

Section 73.57(c)(2) of the proposed rule prohibited a licensee from using the FBI information in a manner that would infringe upon an individual's rights under the First Amendment. Comments received on this provision indicated that it is redundant and unnecessary. It was the staff's intent to assure that individuals subject to fingerprinting are protected from misuse of the criminal history records as mandated by Pub. L. 99–399. The Conference Report on H.R. 4151 (published in the Congressional Record on August 12, 1986, p. H–5965) contained legislative history which stated that ". . . Misuse would include, for example, use of the records to discriminate against minorities or to penalize union members or whistleblowers or to accomplish any other unlawful purpose." The right to privacy is the primary First Amendment right that could be affected by this rule. Under the rule, an individual's right to privacy is protected by the limitations on re-dissemination of personal information contained in the rule itself. Nonetheless, while recognizing that there is some merit in the public comment received, in the interest of emphasizing the importance of concern for individual's rights, the Commission is retaining the reference to the First Amendment.

In addition, the Commission is aware that utilities are already prohibited from discriminating in employment on the basis of race, religion, national origin, sex, or age by Title VII of the Civil Rights Act of 1964 and by the Age Discrimination in Employment Act. Also, utilities which are Government contractors are required to sign an Equal Opportunity Clause in order to assure nondiscrimination for the same reasons. Commenters pointed out that individuals as "whistleblowers" are also protected by section 210 of the Energy Reorganization Act of 1974 and union members are protected under the National Labor Relations Act. However, the rule itself contains no other provisions that would preclude misuse or abuse of the information in those contexts. Accordingly, the remainder of the precautionary statement is also retained.

Commenters expressed concern over limitations contained in § 73.57 (c)((i) and (ii) which prohibit a licensee from basing a final determination to deny an individual unescorted access to a nuclear power facility or access to Safeguards Information solely upon an arrest more than one year old for which there is no information of the disposition of the case, or upon an arrest that resulted in dismissal on the charge or an acquittal. Commenters stated that it is not uncommon to find a case that had not gone to trial within one year of the date of the arrest. In situations like this, commenters felt that the licensee would be unable to take action if attorneys were employing tactics to delay or avoid trial, or where felony cases were being delayed for various other reasons. Likewise, concern was expressed that career criminals could manipulate the criminal justice system with plea bargaining arrangements and appear to have no serious convictions even though they continuously violate the law. Commenters felt that licensee should be allowed to grant or deny unescorted

access to their facilities or access to Safeguards Information based on their own judgment since an individual acquitted of a crime may still have admittedly engaged in conduct which should warrant the denial of unescorted access. In response to the comments received on this provision, the staff reiterates that FBI criminal history data received by the licensee is but one element of background investigations of industry run access authorization programs. The information received by the licensee on an individual's arrest record can be used as a basis for developing additional information which may be used in the determination to grant or deny access. For example, developed character references could confirm that the individual's behavior, as reflected in the arrest record, is not considered desirable by the licensee as suitable for the job.

In analyzing the public comments, the staff felt that the respondents were misinterpreting the word "solely" in the context of the provision. The term "solely" was never intended to imply that the information from the FBI was the only data to be used in determining whether to grant or deny unescorted access or access to Safeguards Information but rather to preclude its misuse (i.e., for discrimination purposes). The results of other elements of industry-run access authorization programs are also taken into account in making the decision. However, if all results are favorable except for an arrest without a disposition on an individual's criminal history record, the licensee cannot deny unescorted access or access to Safeguards Information because of the arrest itself, as stipulated in Pub. L. 99–399.

A number of letters of comment were received requesting additional provisions for exemptions to the rule. The staff has analyzed the various situations and concluded that certain exemptions are warranted because of the nature or urgency of the action in which access is required, the individuals either have undergone equivalent clearance programs or have been certified by the NRC, or have been ordered access to Safeguards Information pursuant to 10 CFR 2.744. For example, NRC employees and NRC contractors on official agency business have undergone equivalent clearance programs and are certified by the NRC to the licensee. Likewise, individuals employed at a facility who possess "Q", "L", or other active government granted security clearances, and certain State and local government employees have also undergone equivalent clearance programs. Because of the nature or urgency of the action in which access is required, individuals responding to a site emergency and law enforcement personnel acting in an official capacity are exempted.

Under State agreement arrangements, the requirement to provide nuclear material transportation information to designated individuals, and under situations when disclosure is ordered pursuant to § 2.744(e), Safeguards Information is made available on a need to know basis and with the protections specified in § 73.21 to certain individuals. Accordingly, exemptions have been provided for these situations. The exemptions from the provisions of the rule are contained in paragraph (b)(2) of the rule.

Additionally, as a Federal agency, Tennessee Valley Authority (TVA) has long submitted criminal history requests to the FBI in accordance with TVA's security suitability investigations conducted under Executive Order No. 10450. This program is equivalent to the program proposed to the rule. Therefore, TVA will be allowed to continue its program of submitting fingerprint cards directly to the FBI.

Several respondents requested that the NRC bill licensees on a monthly basis for fingerprint cards submitted to the FBI through the NRC.

Analysis by the staff indicated that developing and implementing billing procedures, monitoring receipt of payment, calculating interest on late payments, sending notices of nonpayment and other administrative activities would increase known or estimated agency personnel and interest costs to the Government. NRC has a responsibility under the Deficit Reduction Act of 1984 and 31 CFR Part 206 to develop a collection mechanism that expedites credit and availability of monies to the U.S. Treasury. Accordingly, implementation of a billing and collection system, which unduly increases costs to the Government, solely for the benefit of licensees, is not appropriate.

The Supplementary Information of the proposed rule suggested that a forwarding letter transmitting the fingerprint cards contain the facility docket number in addition to other requested information. Likewise, the facility docket number needs to be included on each individual fingerprint card in the space marked "Reason Fingerprinted." It was requested by two multi-plant licensees that the requirement for docket numbers be deleted and that the facility name be used in lieu of the docket number to preclude administrative problems. To accommodate this request, licensees may include the facility name in addition to the docket number on the forms.

Although the rule is effective 30 days after publication in the **Federal Register**, licensees wishing to submit fingerprint cards to the FBI through the NRC may do so during this time, and all cards received will be processed commencing on April 8, 1987, in order of receipt.

Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150–0002.

Regulatory Analysis

The NRC staff has prepared a regulatory analysis on this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555. Single copies of the analysis may be obtained from Kristina Jamgochian, Safeguards Reactor Regulatory Requirements Section, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427–4754.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that if promulgated, this rule will not have a significant economic impact upon a substantial number of small entities. The rule affects licensees who operate nuclear power plants under 10 CFR Parts 50 and 73. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in section 605(b) of the Regulatory Flexibility Act of 1980, or within the definition of Small Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR Part 121.

Backfit Analysis

As this rulemaking is based upon a legislative mandate, the need to make a backfit decision is unnecessary.

List of Subjects in 10 CFR Part 73

Hazardous materials—transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendment to 10 CFR Part 73.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for CFR Part 73 is revised to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, and Section 161i, 68 Stat. 948i (42 U.S.C. 2201).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 73.21, 73.37(g), and 73.55 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, 73.67 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 73.20(c)(1), 73.24(b)(1), 73.26(b)(3), (h)(6), and (k)(4), 73.27 (a) and (b), 73.37(f), 73.40 (b) and (d), 73.46(g)(6) and (h)(2), 73.50(g)(2), (3)(iii)(B), and (h), 73.55(h)(2) and (4)(iii)(B), 73.70, 73.71, 73.72 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. A new § 73.57 is added to read as follows:

§ 73.57 Requirements for criminal history checks of individuals granted unescorted access to a nuclear power facility or access to Safeguards Information by power reactor licensees.

(a) *General.* (1) Each licensee who is authorized to operate a nuclear power reactor under Part 50 shall comply with the requirements of this section.

(2) Each applicant for a license to operate a nuclear power reactor pursuant to Part 50 of this chapter shall submit fingerprint cards for those individuals who have or will have access to Safeguards Information.

(3) Each applicant for a license to operate a nuclear power reactor pursuant to Part 50 of this chapter may submit fingerprint cards prior to receiving its operating license for those individuals who will require unescorted access to the nuclear power facility.

(b) *General performance objective and requirements.* (1) Except those listed in paragraph (b)(2) of the section, each licensee subject to the provisions of this section shall fingerprint each individual who is permitted unescorted access to the nuclear power facility or access to Safeguards Information. Individuals who have unescorted access authorization on April 1, 1987 will retain such access pending licensee receipt of the results of the criminal history check on the individual's fingerprints, so long as the cards were submitted by September 28, 1987. The licensee will then review and use the information received from the Federal Bureau of Investigation (FBI), and based on the provisions contained in this rule, determine either to continue to grant or to deny further unescorted access to the facility or Safeguards Information for that individual. Individuals who do not have unescorted access or access to Safeguards Information after April 1, 1987 shall be fingerprinted by the licensee and the result of the criminal history records check shall be used prior to making a determination for granting unescorted access to the nuclear power facility or access to Safeguards Information.

(2) Licensees need not fingerprint in accordance with the requirements of this section for the following categories:

(i) For unescorted access to the nuclear power facility or for access to Safeguards Information (but must adhere to provisions contained in § 73.21): NRC employees and NRC contractors on official agency business; individuals responding to a site emergency in accordance with the provisions of § 73.55(a); a representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement at designated facilities who has been certified by the NRC; law enforcement personnel acting in an official capacity; State or local government employees who have had equivalent reviews of FBI criminal history data; and individuals employed at a facility who possess "Q" or "L" clearances or possess another active government granted security clearance, i.e., Top Secret, Secret, or Confidential;

(ii) For access to Safeguards Information only but must adhere to provisions contained in § 73.21: Employees of other agencies of the United States Government; a member of a duly authorized committee of the Congress; the Governor of a State or his/her designated representative; individuals to whom disclosure is ordered pursuant to § 2.744(e);

(iii) Any licensee currently processing criminal history requests through the FBI pursuant to Executive Order 10450 need not also submit such requests to the NRC under this section; and

(iv) When a nuclear power plant is in cold shutdown during refueling or major maintenance, the requirements of this rule may be waived for devitalized areas.

(v) Upon further notice to licensees and without further rulemaking, the Commission may waive certain requirements of this section on a temporary basis for temporary workers.

(3) The licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record, and inform the individual of proper procedures for revising the record or including explanation in the record.

(4) Fingerprinting is not required if the utility is reinstating the unescorted access to the nuclear power facility or access to Safeguards Information granted an individual if:

(i) The individual returns to the same nuclear power utility that granted access and such access has not been interrupted for a continuous period of more than 365 days; and

(ii) The previous access was terminated under favorable conditions.

(5) Fingerprints need not be taken, in the discretion of the licensee, if an individual who is a permanent employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to a nuclear power facility or to Safeguards Information by another licensee, based in part on a criminal history records check under this section. The criminal history check file may be transferred to the gaining licensee in accordance with the provisions of paragraph (f)(3) of this section.

(6) All fingerprints obtained by the licensee under this section must be submitted to the Attorney General of the United States through the Commission.

(7) The licensee shall review the information received from the Attorney General and consider it in making a determination for granting unescorted access to the individual or access to Safeguards Information.

(8) A licensee shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access to the nuclear power facility or access to Safeguards Information.

(c) *Prohibitions.* (1) A licensee may not base a final determination to deny

an individual unescorted access to the nuclear power facility or access to Safeguards Information solely on the basis of information received from the FBI involving:

(i) An arrest more than 1 year old for which there is no information of the disposition of the case; or

(ii) An arrest that resulted in dismissal of the charge or an acquittal.

(2) A licensee may not use information received from a criminal history check obtained under this section in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

(d) *Procedures for processing of fingerprint checks.* (1) For the purpose of complying with this section, licensees shall submit one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ, NRC Division of Security, Bethesda, MD) which may be obtained from the NRC for each individual requiring unescorted access to the nuclear power facility or access to Safeguards Information to the Director, Division of Security, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Criminal History Check Section. Copies of these forms may be obtained by writing to: Information and Records Management Branch (PMSS), U.S. Nuclear Regulatory Commission, Washington, DC 20555. The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

(2) The Commission will review applications for criminal history checks for completeness. Any Form FD–258 containing omissions or evident errors will be returned to the licensee for corrections. No additional fee will be charged for fingerprint cards needed to replace returned incomplete or illegible fingerprint cards if the original fingerprint card is attached to the resubmittal or a note is attached indicating that the previously submitted card had been incomplete.

(3) Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, or money order made payable to "U.S. NRC," at the rate of $15.00 for each card. Combined payment for multiple applications is acceptable.

(4) The Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history checks, including the individual's fingerprint card.

(e) *Right to correct and complete information.* (1) Prior to any final adverse determination, the licensee shall make available to the individual the contents of records obtained from the FBI for the purpose of assuring correct and complete information. Confirmation of receipt by the individual of this notification must be maintained by the licensee for a period of 1 year from the date of the notification.

(2) If after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes changes, corrections, or updating (of the alleged deficiency), or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the agency, i.e., law enforcement agency, that contributed the questioned information or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537–9700 as set forth in 28 CFR 16.30 through 16.34. In the latter case, the FBI then forwards the challenge to the agency that submitted the data requesting that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. Licensees must provide at least 10 days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for his/her review. The licensee may make a final adverse determination based upon the criminal history record, if applicable, only upon receipt of the FBI's confirmation or correction of the record.

(f) *Protection of information.* (1) Each licensee who obtains a criminal history record on an individual under this section shall establish and maintain a system of files and procedures for protection of the record and the personal information from unauthorized disclosure.

(2) The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to the nuclear power facility or access to Safeguards Information. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need to know.

(3) The personal information obtained on an individual from a criminal history record check may be transferred to another licensee:

(i) Upon the individual's written request to the licensee holding the data to re-disseminate the information contained in his/her file; and

(ii) The gaining licensee verifies information such as name, data of birth, social security number, sex, and other applicable physical characteristics for identification.

(4) The licensee shall make criminal history records obtained under this section available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

(5) The licensee shall retain all fingerprint cards and criminal history records received from the FBI, or a copy if the individual's file has been transferred, on an individual (including data indicating no record) for 1 year after termination or denial of unescorted access to the nuclear power facility or access to Safeguards Information.

Dated at Washington, DC, this 26th day of February 1987.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 87–4436 Filed 2–27–87; 9:31 am]

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LIST OF PUBLIC LAWS

Note. No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List February 18, 1987

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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1, 2 (2 Reserved)	$9.00	Jan. 1, 1987
3 (1985 Compilation and Parts 100 and 101)	14.00	[1] Jan. 1, 1986
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1986. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1986. The CFR volume issued as of July 1, 1984, should be retained.

[4] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[7] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept. 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—MARCH 1987

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
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March 3	March 18	April 2	April 17	May 4	June 1
March 4	March 19	April 3	April 20	May 4	June 2
March 5	March 20	April 6	April 20	May 4	June 3
March 6	March 23	April 6	April 20	May 5	June 4
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March 11	March 26	April 10	April 27	May 11	June 9
March 12	March 27	April 13	April 27	May 11	June 10
March 13	March 30	April 13	April 27	May 12	June 11
March 16	March 31	April 15	April 30	May 15	June 15
March 17	April 1	April 16	May 1	May 18	June 15
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March 23	April 7	April 22	May 7	May 22	June 22
March 24	April 8	April 23	May 8	May 26	June 22
March 25	April 9	April 24	May 11	May 26	June 23
March 26	April 10	April 27	May 11	May 26	June 24
March 27	April 13	April 27	May 11	May 26	June 25
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March 31	April 15	April 30	May 15	June 1	June 29